

**LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
MEETING AGENDA**

Friday, June 18, 2021 – 1:00 p.m.

Zoom meeting (invitation to follow for members)

**If you are not a member of the Board and wish to attend the virtual meeting, call the
Office at 651-296-3952**

1. Approval of Minutes of April 23, 2021, Lawyers Board Meeting (Attachment 1)
2. Office and Board COVID-19 Response
 - a. Return to the Office
 - b. Minnesota Judicial Branch COVID-19 Order and Updated Preparedness Plan (Attachment 2)
3. Committee Updates:
 - a. Rules Committee
 - (i) Status, Rule 7, MRPC, Series Petition
 - (ii) Status, Rule 20, RLPR, Petition
 - (iii) Status, Rules 4-5, RLPR
 - b. Opinion Committee
 - (i) Panel Assignment Process
 - (ii) Cryptocurrency
 - (iii) Livestreaming
 - c. DEC Committee
 - (i) New Member Training Manual
 - (ii) Chairs Symposium Feedback and DEC Ad (Attachment 3)
 - (iii) Seminar, September 17, 2021
 - d. Equity, Equality and Inclusion Committee
4. Director's Report: (Attachment 4)
 - a. Statistics
 - b. Office Updates
 - c. 2022-23 Budget Update

5. 2021 Draft Annual Report (In process)
6. Proposed 2022 Meeting Dates (Attachment 6)
7. Old Business
 - a. DEC, Board and OLPR consistency, efficiency
8. New Business
9. Quarterly Closed Session
10. Next Meeting, October 28, 2021 (In-person if possible)

If you have a disability and anticipate needing an accommodation, please contact Susan Humiston at lprada@courts.state.mn.us or at 651-296-3952. All requests for accommodation will be given due consideration and may require an interactive process between the requestor and the Office of Lawyers Professional Responsibility to determine the best course of action. If you believe you have been excluded from participating in, or denied benefits of, any Office of Lawyers Professional Responsibility services because of a disability, please visit www.mncourts.gov/ADAAccommodation.aspx for information on how to submit an ADA Grievance form.

**MINUTES OF THE 194th MEETING OF THE
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

April 23, 2021

The 194th meeting of the Lawyers Professional Responsibility Board convened at 1:00 p.m. on Friday, April 23, 2021, electronically via Zoom. Present were: Board Chair Robin Wolpert, and Board Members Landon J. Ascherman, Jeanette M. Boerner, Benjamin J. Butler, Daniel J. Cragg, Michael Friedman, Katherine Brown Holmen, Peter Ivy, Virginia Klevorn, Tommy A. Krause, Mark Lanterman, Paul J. Lehman, Kristi J. Paulson, William Pentelovitch, Andrew N. Rhoades, Susan C. Rhode, Geri C. Sjoquist, Susan Stahl Slieter, Mary L. Waldkirch Tilley, Antoinette M. Watkins, Bruce R. Williams, Allan Witz, and Julian C. Zebot. Present from the Director's Office were: Director Susan M. Humiston and Managing Attorneys Jennifer S. Bovitz and Binh T. Tuong and Senior Assistant Director Karin Ciano. Also present were Minnesota Supreme Court Associate Justice Natalie E. Hudson, Eric Cooperstein and William Wernz.

Chair Robin Wolpert commenced the meeting and asked whether a return to in-person meetings would be possible soon? Director Susan Humiston responded that the Chief Judge is recommending that we continue to meet remotely as the Branch monitors community transmission, and that an updated order from the Court is likely to be issued in May.

Ms. Wolpert then welcomed Antoinette Watkins, as the newest public Board member. Ms. Watkins introduced herself stating she lives in Minneapolis and has lived there for four years. She has four children and her husband is a teacher. They love Minneapolis and she is excited for the opportunity to make a positive impact as a part of the Board.

Karin Ciano, OLPR Senior Assistant Director, also introduced herself. Ms. Ciano explained that she has worked for the OLPR for 90 days and prior to that was practicing in a solo/small firm for 10 years. Ms. Ciano was previously a federal law clerk, an educator and also has experience at a large firm.

Ms. Wolpert also welcomed Eric Cooperstein.

1. APPROVAL OF MINUTES (ATTACHMENT 1).

The minutes of the January 29, 2021, Board meeting were unanimously approved.

2. **BOARD MEMBER UPDATES:**

a. New Member, Antoinette Watkins.

Ms. Watkins was welcomed and introduced at the beginning of the meeting.

b. Panel and Committee Assignments (Attachment 2).

Ms. Wolpert explained that when Ms. Watkins joined the Board, there was an impetus to make changes to Panel and committee assignments. One change is that Tommy Krause has moved to the Executive Committee. Additionally, Panels 3, 4 and 5 have changes. Ms. Wolpert also explained that new Board members will be assigned to Allan Witz's Panel to continue training and it is a prudent practice. In addition to Panel assignment changes, there were also committee assignment shifts. Ms. Wolpert added that Panel Chairs and the Executive Committee have been meeting regarding Panel Manual issues, some of which will be referred to the Opinions Committee. Ms. Wolpert advised she will also be sending operations issues over to the Opinions Committee.

3. **COMMITTEE UPDATES:**

a. Rules Committee.

(i) Status, Rule 7 Series Advertising Rule Petition.

Rules Committee Chair Peter Ivy recapped that the Rules Committee has been coordinating with the MSBA on the Rule 7 series petition. Mr. Ivy explained the major difference between the MSBA and the LPRB position is that the MSBA wants to retain the certified specialist language and the LPRB would allow more people to call themselves specialists. Mr. Ivy noted that the MSBA General Assembly is going to move to sever proposed Rule 1.8 amendments from the Rule 7 series and then the MSBA and the LPRB will each file petitions contemporaneously.

(ii) Status, Rule 20, RLPR, Petition.

Mr. Ivy advised that Rule 20, RLPR, and the proposed amendments address how the OLPR creates and maintains data related to the disciplinary process. One benefit of the proposed amendments is the provision allowing for consultation with LCL prior to a public proceeding. Mr. Ivy also noted that the amendments provide an ability to maintain the

confidentiality of certain information. Mr. Ivy reported that other than clerical errors, the MSBA had no comment. Per Director Humiston, the Rule 20, RLPR, petition is ready to finalize. Mr. Ivy thanked Ms. Tuong for her assistance.

(iii) Status, Rule 1.8(e), MRPC, changes

Mr. Ivy praised the Board for pointing out constitutional issues missed by both the ABA and MSBA. Mr. Ivy noted that the divide is increasing between the haves and have nots and the good thing about the proposed rule is that a gift is a gift, but the proposed rule limits advertising and is far from clear that the rule advances a substantial government interest. Mr. Ivy suggested the question is whether the proposed language can be written more narrowly. Mr. Ivy noted that the MSBA has formed a subcommittee to address the constitutional issues and that the Rules Committee will monitor the MSBA subcommittee.

(iv) Status, Rules 4-5, RLPR, Comments (Attachment 3).

Mr. Ivy discussed the Rules Committee perspective that the proposed amendments to Rules 4-5, RLPR, would transform the Board from a supervisory body to an advisory body. Mr. Ivy explained that the Rules Committee met and that a number of different comments were received and comments from the Rules Committee (11-page commentary) were sent out for Board member review. Mr. Ivy stated that if implemented, and the Board had general advisory authority, the Director would no longer be accountable to the Board. Mr. Ivy stated that the Board consistently works with the OLPR, and that the State Court Administrator does not have the time and resources that the Board does. Mr. Ivy noted this may impact the ability to recruit public members and noted a perceived conflict of interest of the State Court Administrator serving in this role.

William Wernz was invited to speak. Mr. Wernz explained that he has a 50-year history with the Minnesota discipline system, including serving as the Director from 1985-1992. Mr. Wernz stated that he often worked very closely with the LPRB as director and found it to be a very fruitful relationship. In describing issues that occur with an unsupervised director, Mr. Wernz described a crisis, in the mid-1980s, when Mr. Wernz was an employee of the Director's Office. Mr. Wernz described that at that time the Director had the ability to open files without Executive

Committee approval and secret investigations were occurring. As a result of this behavior, when the Board requested an increase in funding at the MSBA convention, the line went out the door, speaking against the proposal because of the perception that the bar did not want to fund the Office.

Mr. Wernz discussed the Dreher Report and recommendations which looked at the Director's Office and discussed reform. Mr. Wernz stated one of the recommendations was that the LPRB Executive Committee would work hand and glove with the director including in a supervisory relationship. Mr. Wernz noted during this time the director resigned. Mr. Wernz explained that by the time the rules were adopted, he was the first Director to work with the Executive Committee. Mr. Wernz stated he has worked with the MSBA Rules Committee and comments have been filed opposing the proposed amendments. Mr. Wernz asked - What if there is another crisis? Mr. Wernz explained the strengths of the Minnesota discipline system is the role of the public and the insights they bring. Mr. Wernz highlighted that the Executive Committee would be changed from supervisory to advisory.

Ms. Wolpert added that the question will be whether the Board as a whole accepts, rejects or modifies the comments prepared by the Rules Committee.

Virginia Klevorn commented that, as a public member, there is a huge learning curve and clarified that her comments have nothing to do with the current Director. Ms. Klevorn stated that if we remove the public voice, we will not have a system as strong as it currently is. Ms. Klevorn stated it is important that I am able to speak freely and added that we would never want the secret opening of a file. Ms. Klevorn added it is important that power be kept in check.

Andrew Rhoades echoed Ms. Klevorn's comments and stated he has seen this happen in his employment. Mr. Rhoades stated that people will start to lose faith in the system and we could run into another situation.

Mary Waldkirch Tilley stated she agrees with Ms. Klevorn and Mr. Rhoades, adding that when looking at the rule change, if a public member is disregarded, what is the point?

Michael Friedman stated that it does not seem like there is going to be disagreement and explained that he was the Chair of the Minneapolis Civilian Review Board. Mr. Friedman added that the Board feels responsibility for its mission and if there is no authority, it becomes an impediment to the overall sense of mission. Mr. Friedman added that he appreciates the work of the Rules Committee.

William Pentelovitch explained that he is relatively new and has observed that the Board largely functions in a supervisory function, including reviewing appeals, and added that the Supreme Court cannot supervise itself. Mr. Pentelovitch added that giving that responsibility to the State Court Administrator is passing the buck to someone who is not in the position to make an evaluation or to respond to deficiencies. Mr. Pentelovitch further added that non-profit boards have supervisory authority over the executive director and also noted that we could have a situation arise again. Mr. Pentelovitch agreed with the comments and found the letters of commentary persuasive, particularly the letter of Tom Vasaly.

Landon Ascheman stated that initially he believed the changes made sense, in particular to remove HR decisions from the Board. However, Mr. Ascheman described that as he took more time reviewing the amendments and comments, it makes less and less sense. Mr. Ascheman added that there would still be hearings and appeals but that there is more to it than that. Mr. Ascheman does not think the amendments as presented are appropriate.

Benjamin Butler echoed the comments of other members and stated he appreciated Mr. Friedman's comments as to the mission of the Board. Mr. Butler added that it is clear under the current rules that the Director serves at the pleasure of the Supreme Court and nothing in the proposal changes that.

Ms. Wolpert explained that the mission of the Office and the Board is to model the highest standard of public service to ensure that we are able to function in all situations. Ms. Wolpert added that sharing information allows you to proactively address challenges, and Rules 4 and 5, RLPR, exemplify that. Ms. Wolpert expressed appreciation for all of the comments and thanked the public members for speaking noting, we value you, and the best decisions are made when we are closest to reality.

Bruce Williams opined that the LPRB is already a bit of an outlier having Director independence.

Eric Cooperstein was invited to comment and shared that he has participated in the professional regulation committee comments and noted that he is entrenched in the discipline system from the other side.

Daniel Cragg asked whether additional comments are outside of the comment time period?

Ms. Wolpert responded that it was outside of the comment time period, but that she would follow-up with a letter identifying whether the Board adopted the Rules Committee comments.

Mr. Cragg made a motion to ratify the Rules Committee comments on behalf of the Board. Mr. Pentelovitch provided a second.

The Motion passed. Kristi Paulson, Susan Stahl Slieter and Geri Sjoquist abstained.

Justice Hudson provided direction that a letter conveying the Board's position will be more than sufficient. Justice Hudson explained the issue will likely be on the Court's June calendar (June 16) and stated the Court appreciates the comments and will take the comments into consideration.

b. Opinions Committee.

Opinions Committee Chair Mark Lanterman provided an update regarding Committee members and a recent Committee meeting. Mr. Lanterman also presented a PowerPoint to assist those attending with understanding the current issues being handled by the Opinions Committee. The presentation is attached to the minutes.

While displaying the PowerPoint, Mr. Lanterman described the issues the Opinions Committee is considering include whether cryptocurrency be accepted as payment and associated regulation. Mr. Lanterman discussed Nebraska's opinion which provides that lawyers may accept digital currency, but must convert it immediately to the digital currency U.S. Dollars.

Mr. Lanterman discussed another issue the Committee is considering is livestreaming. Issues discussed include increasing access, more comes through

on video than transcripts alone and downsides include potential for theatrics, the cost of equipment and potential disclosure of confidential information.

The final issue the Opinions Committee discussed was Panel assignments. Mr. Lanterman reported that he created a random but weighted Panel generator and shared it with the Chair and the Committee. Mr. Lanterman also demonstrated the random Panel generator during the Board meeting. The details of the random Panel generator that were shared at the meeting are located at slides 7-14. The Opinions Committee recommends the random Panel generator be considered by the Board

Ms. Wolpert provided context about how assignments currently occur detailing that the Board Chair makes Panel assignments by creating a random number list. Ms. Wolpert noted that during the first year, assignments appeared fine and there were not huge disparities. In 2018-2019, Panel 3 was not getting any cases and the issue was raised. A discussion ensued including whether we should do a weighted case assignment process. In 2019, the Board rejected this proposal, but gave the Chair the green light to equalize case assignments as needed. Ms. Wolpert observed that this past year presented another pronounced challenge. In January, at the end of our year, a flurry of charges were issued, and all went to Susan Rhode's Panel and, as a result, switches were made. Ms. Wolpert noted the problem this solves is equality over the year but it will not solve short term inequities.

Allan Witz thanked Mr. Lanterman for his work and the great solution and observed if balancing is linked to the number up front, we may still require Chair intervention.

Ms. Wolpert added that if there is a conflict, the Office addresses.

Mr. Ascherman advised that he helped test the first version and liked the improvements.

Director Humiston added that the Committee should also consider a re-write to the Policy and Procedure on how Panel assignments are made so respondents and counsel have an appropriate and updated reference. Director Humiston added that Rule 4(f), RLPR, would also need to be modified as the language says the Director makes panel assignments, and we have never done that. Currently, Rule 4(f), RLPR, states the Director assigns to Panels, which we only do as an administrative matter, the Board Chair makes the Panel

assignments. As to conflicts, the Director's Office makes substitutions upon director of the Board chair, and the Panel clerk will assign via a rotation.

Mr. Friedman noted that he served on Susan Rhode's Panel and thanked Mr. Lanterman, the Board and the Director. Mr. Friedman asked when setting the initial number threshold - when do you define equality - should we consider setting a lower number divisible by 6?

Mr. Lanterman responded that it would be very easy for the Chair to pick a number.

Jeanette Boerner advocated for a larger number because the timing of cases can be meaningless, and explained that the first in may not be the first out. Ms. Boerner added that this issue has come up no less than five times and commented that former Board member Jim Cullen also did not like that so much discretion was given to the Chair. Ms. Boerner added that she does not believe the issue ever got to the next step and explained the difference between then and now is that now there is a much more comprehensive plan and this would take work off of the Chair. Ms. Boerner added that she is appreciative of the work that has been done on this issue.

Ms. Wolpert added that she would prefer to be more hands off.

Ms. Sjoquist commented and confirmed that the higher of the initial input number, the greater the randomness. Ms. Sjoquist also posed a question about the randomness of assignments and weighting.

Mr. Lanterman answered that he built in weighting but it is not impossible for the same Panel to be assigned in short order.

In returning to the discussion of cryptocurrency, Ms. Klevorn commented that you can see how this issue can open up an entire can of worms. Ms. Klevorn states that cryptocurrency is not considered legal currency and asked what kind of rule-making would go along with allowing cryptocurrency as payment? Ms. Klevorn further inquired, how would we track that from a regulation standpoint? Ms. Klevorn stated that once cryptocurrency is moved, it is hard to tell who took it. She further posed, what about courts - trying to adjudicate - does it put courts in an odd space? Ms. Klevorn added, would you be prejudicing your own client if you were disclosing you were paid in cryptocurrency? Ms. Klevorn opined that until the IRS classifies cryptocurrency as currency, this is a difficult position

Mr. Lanterman responded that these are great points and stated that he thought Nebraska was a leader, with its provision of requiring immediate conversion to USD and that its opinion may be a good road map. Mr. Lanterman added the value of Bitcoin is volatile.

Mr. Cragg added that the issue was brought to the Opinions Committee, not the Rules Committee, stating that it is a novel situation where rules already apply and that we need to give guidance. Mr. Cragg posed for example, what do we do about advance fees? Mr. Cragg disagrees with the Nebraska opinion in part. Mr. Cragg highlighted the value of LPRB opinions by providing an example of one of the most important opinions, the LPRB opinion on the use of email.

Ms. Wolpert added that the Opinions Committee is gathering information on current rules, opinions, and will connect with the Office including on the issue of whether this has been an issue occurring in advisory opinions. Ms. Wolpert added that once the group is educated, the June meeting will be used to educate the Board to allow for an informed decision.

Mr. Cragg added that the suggestion is for the issue to be studied by the Opinions Committee and ultimately a recommendation made to the full Board.

Mr. Witz added that the SEC is involved in litigation related to this issue and added that California, New York and Florida will likely have opinions on this issue.

Mr. Pentelovitch commented that he is not sure that there is a rule that requires an immediate conversion and questioned whether this should also apply to other marketable securities.

Ms. Klevorn added we need to be thoughtful if we are addressing an unregulated currency.

Mr. Pentelovitch stated that he does not understand why it matters if it is regulated or unregulated other than its volatility.

Ms. Klevorn responded that usually there is a trackable title, and a person could be getting really dirty money and explained when we are talking about the legal profession there is a higher standard.

Mr. Pentelovitch asked, do we have a rule that you cannot get paid in marijuana?

c. DEC Committee.

Chair Allan Witz reported on the Committee's activities.

(i) Chairs Symposium, May 2021 (Attachment 5).

Mr. Witz reported that the Symposium will be held on May 14, 2021, from 8:30-2:40, via Zoom, noting it was in the final stages of planning. Mr. Witz thanked Director Humiston, Jennifer Bovitz, Kristi Paulson and Robin Wolpert for all of the help in planning and coordinating.

(ii) Seminar, September 17, 2021 (Zoom).

Mr. Witz reported the Seminar is planned for September 17, 2021, there is hope it could be in person, but is currently scheduled to occur remotely.

(iii) New Member Training Manual.

Mr. Witz reported he has been working on the Board training manual noting the old manual was 375 pages and the new manual is 100-125 pages. Mr. Witz explained that he has used parts of the training manual in training new members and it has been provided to Ms. Wolpert and Ms. Boerner. Mr. Witz expects that it will be nearing completion and will be sent to the Committee.

Ms. Wolpert commented on the work done by Mr. Witz, Ms. Paulson and Ms. Bovitz and commented on the training manual noting that it is a labor of love. Mr. Witz added that the manual is his third child. Ms. Wolpert wants to make the process productive and ensure that all contribute to make it the best it can be. Ms. Wolpert thanked Mr. Witz.

Ms. Watkins thanked Mr. Witz for sharing the training manual and for seeking feedback adding that the manual is easy to use and easy for a public member to follow and use.

d. Equity, Equality and Inclusion Committee.

Ms. Wolpert reported that the Committee met earlier in the week and interviewed Dana Cutler, a past president of the Missouri Bar, who provides equity, inclusion and bias training with her husband. Ms. Wolpert advised that

Dana has been a leader in conjunction with her husband, Keith, in providing diversity, equity and inclusion training. Ms. Wolpert noted that Mr. Pentelovitch also had suggestions on another alternative and the Committee is getting more information about another trainer. Ms. Wolpert added that the other issue is the budget, noting this will not be a one and done training. Ms. Wolpert noted that the Committee considered various formats/issues including breakout sessions and that we want to be a leader in everything we do.

Ms. Wolpert also discussed that the Committee talked about pipeline of recent Board applicants and the great diverse candidates that applied. Ms. Wolpert advised that the Executive Committee is connecting with those individuals not appointed to the Board to encourage connection with DECs.

Mr. Ascheman commented that there are a lot of different programs going around adding that one of the things he liked about the Cutler group is that they had the attorney reference. Mr. Ascheman explained that they had a good idea of what to present, but also acknowledged that the presentation would need to be tweaked.

e. Panel Manual.

Director Humiston reported that the Panel Manual is a long-time project and includes Mr. Wernz advising the Director that the Panel Manual is old and could use updating. Ms. Humiston explained that the Panel Manual is a helpful tool for respondents going through the discipline process and it has also revealed a need for amendments to the RLPR. Ms. Humiston re-wrote the Panel Manual and shared it with Panel Chairs for an initial perspective along with Ms. Boerner and Ms. Wolpert. Ms. Humiston reported that there have been several meetings where participants are going page by page making recommendations, noting that all are working together on how to make the Panel Manual more user friendly. Ms. Humiston observed that there is a lot of great work being done and the Panel Chairs are very engaged. There is a good process occurring with more meetings scheduled. Ultimately, there will be a draft available for broader discussion. As an example of the amount of time being dedicated, one discussion covered two pages in two hours.

Ms. Wolpert added that there have been three long meetings that have been hugely helpful and have been generating ideas and demonstrates why she moved forward with changing the composition of the Opinions Committee and the importance of gaining a range of perspectives.

4. **DIRECTOR'S REPORT: (ATTACHMENT 6).**

a. **Statistics.**

Ms. Humiston explained the Director's Dashboard for new Board members, explaining that it shows you in every instance where cases are at procedurally. Ms. Humiston continued that in March the Office saw really significant movement and that we are close to the year old without charges goal, particularly if you take out matters that are on hold noting that you will see a lot of great work and we are getting closer to current. Ms. Humiston added that the Office saw a high number of new complaints, and also a very high number of advisory opinion calls in March. Ms. Humiston also clarified that the Executive Committee requested numbers to compare year over year. Ms. Humiston commended the Office's team on the hard work put into getting to the place the Office is now.

b. **Office Updates.**

Ms. Humiston shared that everyone was introduced to Karin Ciano at the beginning of the meeting noting that Ms. Ciano is an excellent addition and her hiring has been the Office's first chance to onboard an employee in a remote environment. Ms. Ciano reports the onboarding is going successfully. Ms. Humiston further reported that there are two openings and we are seeing some great candidates for the first opening which is a more junior position. The other position is currently open and we encourage those present to spread the news.

Mr. Williams asked how many applicants are applying? Ms. Humiston responded around 30, noting the applicants were high quality applicants.

Mr. Ascherman asked about the basis for the departures and whether these were new positions or backfills. Ms. Humiston replied that they are backfilled positions, noting the basis includes one leaving for a new position in the area of cybersecurity and the other decided the position was not the right fit.

Mr. Witz asked how many employees have left in the last twelve months? Ms. Humiston replied, one attorney and one staff retirement.

Ms. Wolpert asked whether there were currently any employees on leave? Ms. Humiston responded that no one is currently on leave, but one employee is serving on a reduced schedule.

Mr. Williams asked what will it take for you to be at full staff? We are currently down 2.7, FTE. Ms. Humiston noted that the Office did not backfill (eliminated) a staff position after a retirement because of increased efficiencies gained from the new database system.

Ms. Humiston also highlighted that Wellbeing in the Profession week will be celebrated May 3-7, 2021, for those in leadership positions at their firms.

c. 2022-23 Budget Update.

Ms. Humiston reported that the Office is engaged in the biennium budgeting process including working with the Branch, noting that the Office has been forecasting for some time that spending will be into the Board's reserve. During the last two-year budget process, an allowance was made to potentially reallocate from the CSB to the LPRB if needed, but that did not have to happen and funds still are with the CSB, where those monies earn interest. These issues have been discussed with Justice Hudson, including how much reserves to have on hand. Ms. Humiston noted that LCL is also in a deficit spending position and will likely be seeking a fee increase. The draft budget will be presented to the Court in June and the question is whether lawyer registration fees have to go up and whether and how the Court will address the need to increase revenue.

Ms. Boerner asked what is the process and timing if the Court raises lawyer registration fees? Ms. Boerner noted that many agencies have set budgets with the current fee structure in mind.

Justice Hudson replied that the Court is fully aware of the issue and the issue is squarely on the Court's plate, noting everything is on the table. Justice Hudson noted that the Court is gathering information with Jeff Shorba and finance and this too will be on the June calendar, noting it will be a "pajama meeting." Justice Hudson explained that the budget will make up a great part of that meeting and the Court is sensitive to raising fees and the impact to budgeting, particularly coming out of the pandemic, noting nothing has been decided. Justice Hudson again reiterated everything is on the table, including whether to move money from CSB and stated that the Court is aware and they are going to tackle the issue.

Ms. Klevorn added how many agencies are impacted by raising fees and noted that the state is addressing the biennium budget now.

Ms. Humiston observed that this conversation has been occurring throughout her time as Director, noting the Court has had visibility on all Boards impacted by lawyer registration revenues, which have remained static, which expenses have increased.

Justice Hudson concurred noting Ms. Humiston is absolutely correct and the Court is aware that this a long-term issue, which the Court has been monitoring for several years, and has been able to hold the registration fee steady for a long time.

5. **OLD BUSINESS.**

a. **DEC, Board and OLPR Consistency, Efficiency.**

Ms. Wolpert reported that the Executive Committee discussed evaluating the Office's case management practices and conducting a deep dive analysis including evaluating how things are running in terms of efficiency. Additionally, Ms. Wolpert added a component is how is the Board doing - are Panels being fair and just and acting consistently, and do Panels know what other Panels are doing? Ms. Wolpert added how is the Office doing in terms of its case management and how is the DEC work product? Ms. Wolpert added is there anything else the Board can do such as leadership training, substantive training and noted these are big picture discussions that will be ongoing.

6. **NEW BUSINESS.**

Mr. Lanterman addressed safety issues noting that his company was contacted by the Lawyers Board of a southern state who took action to disbar a well-known attorney who, in turn, posted the home addresses of the director and board members and urged his followers to teach them a lesson. As a result, a fire was set. Mr. Lanterman added that if anyone has safety concerns regarding their online presence, feel free to contact him offline.

Ms. Klevorn added that it has been a very volatile year and if you ever feel in danger, you can use the Safe at Home address protection program administered through the Secretary of State.

Mr. Lanterman added that one weakness in relying on Safe at Home is that companies pull your property address making your information still public.

Mr. Cragg explained that there are companies, such as "Delete Me," that can help with the removal of personal information from online sources.

Mr. Lanterman noted that work he did for the Kansas Supreme Court resulted in a preference for JoinDeleteMe.com from that organization.

Ms. Wolpert thanked everyone for the important information.

Ms. Sjoquist suggested that consideration be given to getting the rules up to date with trolling and doxing and mentioned that she had a case where an attorney doxed someone in safe at home program.

Ms. Wolpert thanked Ms. Sjoquist for bringing the issue to the Board's attention and noted that the Executive Committee will evaluate whether this is an issue for the Rules Committee to pursue. Ms. Wolpert noted if a member has an issue he/she would like considered, they can email any member of Executive Committee to evaluate.

Justice Hudson added that she could not stay for closed session, thanked everyone and encouraged all to take care.

7. **QUARTERLY CLOSED SESSION.**

The Board, in a closed session, conducted its quarterly Board discussion.

8. **NEXT MEETING.**

The next meeting of the Board will be held on June 18, 2021, at 1:00 p.m. via Zoom.

Thereafter, the meeting adjourned.

Respectfully submitted,

Jennifer S. Bovitz Bovitz, Jennifer
Jun 8 2021 8:51 AM

Jennifer S. Bovitz
Managing Attorney

[Minutes are in draft form until approved by the Board at its next Board Meeting.]

Opinion Committee

- Dan Cragg
- Michael Friedman
- Kristi Paulson
- Geri Sjoquist
- Susan Stahl Slieter
- Mark Lanterman, Chair

Opinion Committee

- Should cryptocurrency be accepted as payment? (Thank you, Daniel Cragg)
- Should Board Meetings and Panels be livestreamed?
- Random Panel Assignment Generator

Cryptocurrency

- Bitcoin
- Ethereum
- Bitcoin Cash
- Monero
- Litecoin
- Ripple
- Dash
- Others

Cryptocurrency

- Nebraska's opinion states that lawyers may accept payments in digital currencies, but must immediately convert them into US dollars. Any refund of monies is also made in US dollars and not in digital currency.
- The Nebraska opinion requires that lawyers "mitigate the risk of volatility and possible unconscionable overpayment for services" by not retaining the digital currency and by converting it "into US dollars immediately upon receipt."
- Bitcoin is often viewed as "shady," and lawyers accepting Bitcoin may also be viewed as "shady."

Livestreaming

- Access
- More comes through video than transcripts alone
- Theatrics
- Costs of equipment and production
- One of few places a lawyer could disclose confidential client information

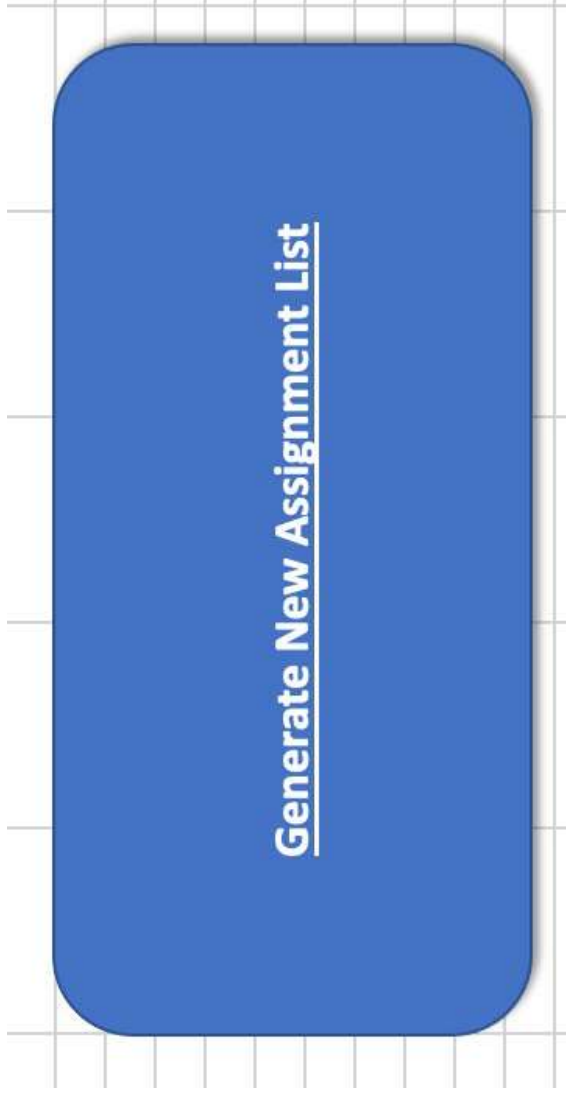
- Rule 1.6(b)(8)
- A lawyer may reveal information relating to the representation of a client if:
 -
 - [...]
 -
 - (8) the lawyer reasonably believes the disclosure is necessary to establish a claim or defense on behalf of the lawyer in an actual or potential controversy between the lawyer and the client, to establish a defense in a civil, criminal, or disciplinary proceeding against the lawyer based upon conduct in which the client was involved or to respond in any proceeding to allegations by the client concerning the lawyer's representation of the client;

Random Panel Assignment Generator

Big Picture



The generator takes matters and shuffles them like a deck of cards. The cards are then dealt out to the players (panels) in a completely random, evenly distributed manner.



When you press the button, a random assignment list is generated.

Assignments per Panel

Number of Matters (User Input Max 108)

54

Number of Panels (User Input Max 6)

6

Matters per Panel

9.00

Benefits

- Locked original values and calculations. Reassignments will need to be added to a separate column. “If reassigned, why?” column also provided for reassignment transparency.
- Can lock macro to prevent changes.
- Equitable distribution – each panel gets same number of cases.
- Cannot guess which 1/54 matter will be assigned to a specific panel.
Odds are $1/54! = 1/230843697339$
241380472092742683027581083278564571807941132288000000
0000 (yes, this whole number)

- The Boring Stuff- Math

Matter Name	Rand
=IF(\$K\$17>=ROW(\$A2)-1,"Matter "&ROW(\$A2)-1,"")	=IF(\$A2="Matter "&ROW(\$A2)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A3)-1,"Matter "&ROW(\$A3)-1,"")	=IF(\$A3="Matter "&ROW(\$A3)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A4)-1,"Matter "&ROW(\$A4)-1,"")	=IF(\$A4="Matter "&ROW(\$A4)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A5)-1,"Matter "&ROW(\$A5)-1,"")	=IF(\$A5="Matter "&ROW(\$A5)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A6)-1,"Matter "&ROW(\$A6)-1,"")	=IF(\$A6="Matter "&ROW(\$A6)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A7)-1,"Matter "&ROW(\$A7)-1,"")	=IF(\$A7="Matter "&ROW(\$A7)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A8)-1,"Matter "&ROW(\$A8)-1,"")	=IF(\$A8="Matter "&ROW(\$A8)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A9)-1,"Matter "&ROW(\$A9)-1,"")	=IF(\$A9="Matter "&ROW(\$A9)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A10)-1,"Matter "&ROW(\$A10)-1,"")	=IF(\$A10="Matter "&ROW(\$A10)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A11)-1,"Matter "&ROW(\$A11)-1,"")	=IF(\$A11="Matter "&ROW(\$A11)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A12)-1,"Matter "&ROW(\$A12)-1,"")	=IF(\$A12="Matter "&ROW(\$A12)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A13)-1,"Matter "&ROW(\$A13)-1,"")	=IF(\$A13="Matter "&ROW(\$A13)-1,RAND()*RAND(),"")
=IF(\$K\$17>=ROW(\$A14)-1,"Matter "&ROW(\$A14)-1,"")	=IF(\$A14="Matter "&ROW(\$A14)-1,RAND()*RAND(),"")

Matter Column – Number of matters to be assigned to the panels. Think of the matters as a playing card (e.g. Matter 1 is Ace of Spades, Matter 2 is Ace of Diamonds, etc.).

Rand Column – A randomly-generated 16 decimal number (10 quadrillion) multiplied by another 16 decimal number and assigned to each matter.

Rank	Grouping	Assigned Panel
=IF(\$A2="Matter "&ROW(\$A2)-1,RANK(\$B2,\$B\$2:\$B\$109),"")	=IF(\$A2="Matter "&ROW(\$A2)-1,\$C2/\$K\$19,"")	=IF(\$A2="Matter "&ROW(\$A2)-1,CEILING(\$D2,1),"")
=IF(\$A3="Matter "&ROW(\$A3)-1,RANK(\$B3,\$B\$2:\$B\$109),"")	=IF(\$A3="Matter "&ROW(\$A3)-1,\$C3/\$K\$19,"")	=IF(\$A3="Matter "&ROW(\$A3)-1,CEILING(\$D3,1),"")
=IF(\$A4="Matter "&ROW(\$A4)-1,RANK(\$B4,\$B\$2:\$B\$109),"")	=IF(\$A4="Matter "&ROW(\$A4)-1,\$C4/\$K\$19,"")	=IF(\$A4="Matter "&ROW(\$A4)-1,CEILING(\$D4,1),"")
=IF(\$A5="Matter "&ROW(\$A5)-1,RANK(\$B5,\$B\$2:\$B\$109),"")	=IF(\$A5="Matter "&ROW(\$A5)-1,\$C5/\$K\$19,"")	=IF(\$A5="Matter "&ROW(\$A5)-1,CEILING(\$D5,1),"")
=IF(\$A6="Matter "&ROW(\$A6)-1,RANK(\$B6,\$B\$2:\$B\$109),"")	=IF(\$A6="Matter "&ROW(\$A6)-1,\$C6/\$K\$19,"")	=IF(\$A6="Matter "&ROW(\$A6)-1,CEILING(\$D6,1),"")
=IF(\$A7="Matter "&ROW(\$A7)-1,RANK(\$B7,\$B\$2:\$B\$109),"")	=IF(\$A7="Matter "&ROW(\$A7)-1,\$C7/\$K\$19,"")	=IF(\$A7="Matter "&ROW(\$A7)-1,CEILING(\$D7,1),"")
=IF(\$A8="Matter "&ROW(\$A8)-1,RANK(\$B8,\$B\$2:\$B\$109),"")	=IF(\$A8="Matter "&ROW(\$A8)-1,\$C8/\$K\$19,"")	=IF(\$A8="Matter "&ROW(\$A8)-1,CEILING(\$D8,1),"")
=IF(\$A9="Matter "&ROW(\$A9)-1,RANK(\$B9,\$B\$2:\$B\$109),"")	=IF(\$A9="Matter "&ROW(\$A9)-1,\$C9/\$K\$19,"")	=IF(\$A9="Matter "&ROW(\$A9)-1,CEILING(\$D9,1),"")
=IF(\$A10="Matter "&ROW(\$A10)-1,RANK(\$B10,\$B\$2:\$B\$109),"")	=IF(\$A10="Matter "&ROW(\$A10)-1,\$C10/\$K\$19,"")	=IF(\$A10="Matter "&ROW(\$A10)-1,CEILING(\$D10,1),"")
=IF(\$A11="Matter "&ROW(\$A11)-1,RANK(\$B11,\$B\$2:\$B\$109),"")	=IF(\$A11="Matter "&ROW(\$A11)-1,\$C11/\$K\$19,"")	=IF(\$A11="Matter "&ROW(\$A11)-1,CEILING(\$D11,1),"")
=IF(\$A12="Matter "&ROW(\$A12)-1,RANK(\$B12,\$B\$2:\$B\$109),"")	=IF(\$A12="Matter "&ROW(\$A12)-1,\$C12/\$K\$19,"")	=IF(\$A12="Matter "&ROW(\$A12)-1,CEILING(\$D12,1),"")
=IF(\$A13="Matter "&ROW(\$A13)-1,RANK(\$B13,\$B\$2:\$B\$109),"")	=IF(\$A13="Matter "&ROW(\$A13)-1,\$C13/\$K\$19,"")	=IF(\$A13="Matter "&ROW(\$A13)-1,CEILING(\$D13,1),"")
=IF(\$A14="Matter "&ROW(\$A14)-1,RANK(\$B14,\$B\$2:\$B\$109),"")	=IF(\$A14="Matter "&ROW(\$A14)-1,\$C14/\$K\$19,"")	=IF(\$A14="Matter "&ROW(\$A14)-1,CEILING(\$D14,1),"")

Rank Column – Think of rank simply as a matter’s position in the deck. Rank 1 is top of the deck, and rank 54 is bottom of the deck.

Grouping Column – The Rank column is divided by the number matters per panels (9 matters per panel). Think of each panel as a player at a poker table. When the rank is divided by the matters per panel, it simulates the actual distribution of the matters to the panels (cards to players).

Assigned Panel Column: Using the “CEILING” function, the Grouping number is rounded to the nearest integer/Panel.

FILED

May 25, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

**ORDER GOVERNING THE CONTINUING OPERATIONS OF THE
MINNESOTA JUDICIAL BRANCH**

ORDER

The operations of the Minnesota Judicial Branch during the peacetime emergency declared by the Governor of the State of Minnesota on March 13, 2020, are currently governed by the order filed on March 22, 2021. That order, which remains in effect through June 13, 2021, authorized a gradual and limited expansion of in-person operations and proceedings. *Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001, at 1–2 (Minn. filed Mar. 22, 2021). Face coverings have been required for persons entering court facilities and attending proceedings conducted in person at court facilities, *Order Requiring Face Coverings at Court Facilities*, No. ADM20-8001 (Minn. filed July 7, 2020). Exposure control measures that are consistent with public health guidance have been implemented at the facilities and locations at which judicial branch proceedings are held.

The Governor has modified or lifted restrictions on certain gatherings and activities, and as of May 14, 2021, face coverings are encouraged but no longer required for some persons and in some settings. *See* Emergency Exec. Order No. 21-21 (May 6, 2021); Emergency Exec. Order No. 21-23 (May 14, 2021). Consistent with these steps and with public health guidance, the Judicial Branch will continue a gradual expansion of in-person

operations and proceedings, as set out below. Unless otherwise indicated, the directions in this order are effective June 14, 2021, and will govern through September 6, 2021.

IT IS HEREBY ORDERED THAT:

A. Case Proceedings: district courts.

1. Judges and court staff shall continue to process cases, in all case types, regardless of whether the judge or employee works at the court facility or remotely. Unless a proceeding is authorized to be held in person in a courtroom as set out in paragraphs 2 through 7 of this order, the proceeding shall be held by remote technology that permits the parties and attorneys to appear without being in the courtroom or by review of the parties' submissions without oral argument. Interpreters shall appear remotely if the technology is available to do so, even if the parties and attorneys appear in person, unless the presiding judge determines that the circumstances of the case require in-person interpreting services and the interpreter's appearance will be consistent with the district's COVID-19 Preparedness Plan.

2. In-person criminal jury trials shall continue to be scheduled and held in any county unless the chief judge of the district determines that the trial cannot proceed due to local conditions. District courts that schedule and hold an in-person criminal jury trial must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan and the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

3. Grand juries shall be impaneled and in-person proceedings held.

4. In-person proceedings shall be scheduled and held in sentencing hearings in criminal cases in which there is a presumptive commitment to the Department of Corrections unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

5. In-person proceedings at which evidence will be presented on issues in dispute, court trials in major criminal case types, juvenile protection (including CHIPS and permanency), and juvenile delinquency case types, and settlement conferences in criminal cases, shall be scheduled and held unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions. Effective August 2, 2021, in-person proceedings shall be held in mandatory misdemeanor criminal court trials and contested hearings in that case type, unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

6. In-person civil jury trials may be held if the chief judge and the district administrator determine that holding that trial will not impact the scheduling of criminal jury trials in the district. Civil jury trials may proceed remotely if the presiding judge and the parties agree.

7. Effective as of the date of this order, proceedings in treatment court may be held in person if the chief judge of the district determines that an exception exists under the Treatment Court Hybrid Hearing Protocols Exception Process. Effective as of June 14, 2021, proceedings in treatment court may be held in person under the hybrid protocols established for such hearings if the chief judge of the district determines that doing so will

not interfere with the scheduling of in-person criminal jury trials and local conditions do not preclude an in-person proceeding.

8. Proceedings in the district court in criminal and civil cases, other than those proceedings subject to paragraphs 2, 3, 4, 5, 6, and 7 of this order, shall be conducted remotely unless the chief judge of the district in which the proceeding is to be held grants an exception for an in-person proceeding to be held.

9. Rules of procedure that prohibit holding court proceedings remotely or that constrain the use of remote technology to conduct court proceedings, specifically Minn. R. Crim. P. 1.05, Minn. Gen. R. Prac. 131, Minn. Gen. R. Prac. 309.02, Minn. Gen. R. Prac. 359.03, Minn. R. Juv. Prot. P. 11.03, Minn. R. Adopt. P. 12.03, Minn. Spec. R. Commit. P. 14, are suspended to the extent that those rules contradict the terms of this order.

10. All in-person proceedings must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan, including with respect to limits on the number of persons attending the hearing, face coverings, and, if applicable, the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

B. Case Proceedings: appellate courts.

11. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts.

12. Civil commitment proceedings that are before the Commitment Appeal Panel established under Minn. Stat. § 253B.19, subd. 1 (2020), shall continue as scheduled by the panel. The panel is authorized to conduct any proceedings or hearings by remote

technology to the extent possible. If an examiner is appointed to prepare a report for a proceeding before the panel, the Clerk of the Appellate Courts will hold a pre-hearing scheduling conference within 10 days after the examiner's final report is filed. No hearing on the petition will be scheduled before the examiner's report is filed.

13. The Office of Lawyers Professional Responsibility and the Board of Law Examiners shall continue to conduct the business of those offices consistent with the sound discretion of the Directors of those offices and the rules that govern the work of and proceedings before those offices. The Directors of those offices are authorized to use remote technology or other distancing measures to the extent feasible and as needed to continue the operations of the office and for proceedings before the boards or panels of those offices that are held under the rules governing those proceedings. Referees appointed by this court to conduct public hearings under the Rules on Lawyers Professional Responsibility can hold a hearing in person if the hearing is conducted consistent with the Judicial Branch COVID-19 Preparedness Plan.

C. Court Facilities, Public Access, and Court Administration.

14. The courts remain open for business, with access to court facilities governed by the Minnesota Judicial Branch COVID-19 Preparedness Plan. For county-owned facilities, access is also subject to conditions county officials impose.

15. At least one public service counter in each county and the public service counter for the appellate courts must be accessible to court customers between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding court holidays). At the discretion of the chief judge and the district administrator for the district courts, and for the appellate

courts, the discretion of the clerk of appellate courts, and after consultation with the State Court Administrator, access to counter services may be provided remotely, by appointment, or in person. Self-help services and facilities shall continue to provide services by appointment, remotely, or by telephone.

16. The district and appellate courts shall continue to accept filings in all case types. Unless required by court rule to file through an electronic case filing system, parties shall use U.S. mail, or in the district court, fax, to submit filings; may use a drop box designated by court administration for in-person filings, if available; and if use is authorized by court administration, may submit filings by e-mail. The State Court Administrator is authorized to implement and publish procedures for the payment of fees that are required for documents filed other than through the electronic case filing system or by U.S. mail.

17. Access to the courtroom for in-person proceedings is limited to the parties in the case who are participating in the proceeding, attorneys who represent those parties, any necessary court staff, and other individuals designated by the presiding judge as necessary to the proceeding. All proceedings conducted using remote technology, by ITV, by telephone, or by other remote means are to be conducted in the same manner as an in-person proceeding and are governed by the applicable rules of procedure. All proceedings remain subject to the Judicial Branch's rules that limit or prohibit recordings of proceedings. Other than as provided by paragraph 18 of this order, no person attending a proceeding may record the proceeding or hearing. The only recording permitted is the official recording created by the court.

18. Representatives of the media are permitted to attend in-person proceedings held in courtrooms and to record those proceedings as permitted by court rules. Unless waived by the presiding judge or a representative of the Court Information Office, requests by media representatives to attend any proceeding, including proceedings held remotely and other than in Hennepin County District Court, must be coordinated through the Judicial Branch Court Information Office at least 24 hours before the scheduled time of the proceeding. Media requesting attendance at proceedings in Hennepin County must coordinate with the Hennepin County District Court Information Officer. No recording or broadcasting of any proceeding, whether held in person or remotely, is authorized other than as provided by court rules. It is the intention of this order that judges and court administration may limit the number of persons in attendance at proceedings, including the number of media representatives, in a manner that is consistent with the Judicial Branch COVID-19 Preparedness Plan.

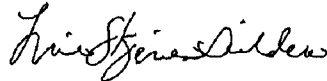
19. The State Court Administrator is authorized to implement temporary modifications to Judicial Branch policies and procedures that support the processing of cases pending in the district courts, including temporary adjustments to work assignments based on need and availability of Judicial Branch personnel. Judicial Branch employees shall work at the facility or remotely, as directed by the employee's supervisor. The Minnesota Judicial Branch COVID-19 Preparedness Plan governs judicial branch employees working at a court facility, including the Minnesota Judicial Center.

20. Access to the State Law Library shall be as established by the State Law Librarian in consultation with the State Court Administrator.

21. This order and the Minnesota Judicial Branch COVID-19 Preparedness Plan supersede the order of July 7, 2020, which required face coverings in court facilities. To the extent that the provisions of this order are inconsistent with any previous order governing the operations of the Judicial Branch, the provisions of this order control.

Dated: May 25, 2021

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice



MINNESOTA JUDICIAL BRANCH

STATE COURT ADMINISTRATOR'S OFFICE

Minnesota Judicial Branch COVID-19 Preparedness Plan

REVISED: June 14, 2021

Under the Supreme Court Order No. ADM 20-8001 (May 25, 2021), the Minnesota Judicial Branch has continued to transition from remote work with limited in-person proceedings to expanded in-person operations in all court locations. This plan, which is based on guidance from the Minnesota Department of Health (MDH) and the Centers for Disease Control and Prevention (CDC), outlines the health and safety parameters that every court facility must maintain as in-person operations continue to expand. The Minnesota Judicial Branch's top priority continues to be protecting the health and safety of judicial officers, staff, and court users, as more people become vaccinated against COVID-19 and case rates continue to decline.

Chief Judges, District Administrators, and the State Court Administrator shall determine how judicial officers and staff will return to work in court facilities to support the expansion of in-person court operations, subject to the following requirements:

1. **Suspected COVID-19 Cases Must Stay Home:** People must stay home when sick or if they have had close contact with a person who has tested positive for COVID-19. [Symptoms of Coronavirus](#). People who have symptoms compatible with COVID-19 must stay home for the amount of time listed on the [CDC's website](#). Additionally, if a household member or close contact has tested positive for COVID-19, people must stay home per [CDC guidelines](#). However, based on the CDC guidance, people who are fully vaccinated or have had COVID-19 within the past 3 months do not need to stay home unless they have symptoms of COVID-19.
2. **Social Distancing:** Social distancing is paramount in helping to prevent the spread of COVID-19. When possible, people must maintain at least 6 feet of distance in all directions at all times. Social distancing is not required for brief interactions, or when people are wearing face coverings. "Brief interactions" means people from two or more different households are within 6 feet of each other for less than 15 minutes total within a 24-hour period.
3. **Face Coverings:** Face coverings are an additional measure to prevent the spread of COVID-19. Any person who wishes to wear a face covering in a Judicial Branch facility may do so, but the Judicial Branch may require the removal of face coverings for reasons of health, safety, or decency, or for purposes of conducting a court proceeding. In certain situations, face coverings are required in Judicial Branch facilities. Any person who claims that a health condition prevents that person from wearing a face covering when required must present written medical documentation that the health condition prevents that person from wearing a face covering. A [face shield](#) will be provided for those with corresponding medical documentation. See Appendix A for additional guidance.
 - a) **Face Coverings in Courtrooms:** Because court proceedings involve people from multiple households and often last longer than 15 minutes, all people must wear face coverings when

they enter courtrooms in Judicial Branch facilities. The presiding judge has discretion to direct people to remove their face coverings while in a courtroom, as long as 6 feet of physical distance in all directions can be maintained while the face coverings are removed. If unusual circumstances make it necessary to remove a face covering while in the courtroom even though physical distance is not maintained, the presiding judge may direct the removal of the face covering if an alternate safety measure, such as a face shield or a plexiglass barrier, is maintained.

- b) **Face Coverings in Jury Deliberation Spaces:** Because juries include people from multiple households gathered together for significant periods of time, all people must wear face coverings while located in jury deliberation spaces, except when they can maintain 6 feet of physical distance in all directions.
 - c) **Face Coverings in Public Areas:** Except in courtrooms, the Judicial Branch will no longer require people to wear face coverings while in public areas of Judicial Branch facilities. However, if a local government entity owns the Judicial Branch facility and chooses to require face coverings in public areas of the facility, people must follow that local government requirement.
 - d) **Face Coverings in Non-Public Areas:** Face coverings are not required in non-public areas of Judicial Branch facilities, except when people spend more than 15 minutes within 6 feet of each other during a 24-hour period. If people spend more than 15 minutes within 6 feet of each other during a 24-hour period in a non-public area of a Judicial Branch facility, they need to wear face coverings unless they are separated by a partition or barrier, as described in Appendix B.
4. **Personal Hygiene:** People in Judicial Branch facilities are encouraged to frequently wash their hands with soap and water for 20 seconds, or to use hand sanitizer with a minimum of 60% alcohol when soap and water are not available. People should also cover any coughs, and should avoid touching their faces.
5. **Cleaning and Disinfecting Surfaces:** Shared spaces should be cleaned once a day, with priority given to high-touch surfaces. If there has been a sick person or someone who tested positive for COVID-19 within the last 24 hours, the space must be both cleaned and disinfected. See [Cleaning and Disinfecting Your Facility](#) for additional guidance.

The following measures are recommended to ensure court facilities operate in compliance with the requirements listed above:

- 1. Increase physical distance between staff at the worksite.
- 2. Maintain social distancing even during breaks, lunch, and other social contacts.
- 3. Implement staggered work schedules if necessary to maintain social distancing.
- 4. Consider conducting meetings and delivering services remotely to reduce the number of people who must be physically present in court facilities.

Building and Work Environment Ventilation

Ventilation is an important factor in preventing COVID-19 transmission indoors. Tenants should consult with facility owners and operators to evaluate the operational capacity of ventilation systems provided throughout the building.

Ventilation Exposure Control Measures:

1. Bring in fresh outdoor air as much as possible.
2. Limit air recirculation if able to.
3. Confirm steps are being taken to minimize air flow blowing across people.
4. If available, ensure exhaust fans in restroom facilities are functional and operating when the building is occupied.
5. If feasible, disable demand-control ventilation controls that reduce air supply based on temperature or occupancy.
6. If accessible, run the HVAC at least two hours before and after spaces are occupied to purge air and allow extra circulation.

Employee Notification Protocol

If a judge or court employee reports a positive COVID-19 test, the Employee Notification Protocol shall be followed.

Purchases for Ongoing Operations

Purchasing will be coordinated by State Court Administration, the District Office or local court facility dependent upon best price and availability of product. The following products must be purchased and available in court facilities while the preparedness plan is in effect.

1. Cleaning and disinfecting supplies
2. Paper masks for jurors and for individuals who need to enter courtrooms and who do not have access to their own face coverings
 - Note: Law firms and justice partner agencies are expected to provide face coverings for their employees who must enter courtrooms
3. Disposable face shields for jurors and for individuals who need to enter courtrooms, who do not have access to their own face shields, and who are medically unable to wear a paper mask
4. Partitions or Barriers (if necessary given the court facility's layout)

Appendix A – Face Coverings

Face coverings are an additional measure to prevent the spread of COVID-19. Any person who wishes to wear a face covering in a Judicial Branch facility may do so, but the Judicial Branch may require the removal of face coverings for reasons of health, safety, or decency, or for purposes of conducting a court proceeding. In certain situations, face coverings are required in Judicial Branch facilities. Any person who claims that a health condition prevents that person from wearing a face covering when required must present written medical documentation that the health condition prevents that person from wearing a face covering. A [face shield](#) will be provided for those with corresponding medical documentation.

- a) **Face Coverings in Courtrooms:** Because court proceedings involve people from multiple households and often last longer than 15 minutes, all people must wear face coverings when they enter courtrooms in Judicial Branch facilities. The presiding judge has discretion to direct people to remove their face coverings while in a courtroom, as long as 6 feet of physical distance in all directions can be maintained while the face coverings are removed. If unusual circumstances make it necessary to remove a face covering while in the courtroom even though physical distance is not maintained, the presiding judge may direct the removal of the face covering if an alternate safety measure, such as a face shield or a plexiglass barrier, is maintained.
- b) **Face Coverings in Jury Deliberation Spaces:** Because juries include people from multiple households gathered together for significant periods of time, all people must wear face coverings while located in jury deliberation spaces, except when they can maintain 6 feet of physical distance in all directions.
- c) **Face Coverings in Other Public Areas:** Except in courtrooms, the Judicial Branch will no longer require people to wear face coverings while in public areas of Judicial Branch facilities. However, if a local government entity owns the Judicial Branch facility and chooses to require face coverings in public areas of the facility, people must follow that local government requirements
- d) **Face Coverings in Non-Public Areas:** Face coverings are not required in non-public areas of Judicial Branch facilities, except when people spend more than 15 minutes within 6 feet of each other during a 24-hour period. If people spend more than 15 minutes within 6 feet of each other during a 24-hour period in a non-public area of a Judicial Branch facility, they need to wear face coverings unless they are separated by a partition or barrier, as described in Appendix B.

All people wearing face coverings in Judicial Branch facilities should follow the CDC's [guidance on masks](#). Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are **not** sufficient face coverings because they allow exhaled droplets to be released into the air.

The Judicial Branch will provide one face covering per day of service for jurors, should they not have their own to wear. Law firms and justice partner agencies are expected to provide face coverings for their employees, including both attorneys and non-attorneys, who must enter Judicial Branch courtrooms. The Judicial Branch will provide a face covering for other individuals who need to

enter Judicial Branch courtrooms and who do not have access to their own face coverings. As noted above, [face shields](#) are an option for individuals who need to enter a courtroom and who are medically unable to wear a face covering.

Judicial Branch employees and judges are directed to enforce this guidance in courtrooms, and may request assistance from county-employed security staff to do so.

Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cloth face covering without assistance.

Appendix B – Partitions and Barriers

Social distancing is paramount in preventing the spread of the virus. However, where social distancing cannot be maintained, especially at public counters and when moving about in courtrooms, local management personnel should coordinate with local property management to evaluate the feasibility of the installation of partitions or barriers (either permanent or temporary). Local management should secure agreements with county management on who is responsible for the purchase and installation of partitions and barriers. The purpose of the partition or barrier is to separate individuals that come into close contact with one another. Partitions and barriers that meet all the recommendations listed below may be used in lieu of the required 6 feet of social distancing.

The following recommendations are suggested for the use of partitions and barriers.

Partitions and Barriers Recommendations:

1. Height and width of partition or barrier should provide for the greatest protection when social distancing cannot be maintained, paying particular attention to provide coverage of the mouth of each person on either side of the partition.
2. The partition or barrier should be the width of the counter/desk of the persons making an exchange of dialogue, documents, etc.
3. The partition or barrier height should be substantial enough that persons on both sides of the partition should not be able to see over the top of it (e.g., high enough to cover a person standing/sitting at counter/desk).
4. Large openings defeat the purpose of separating individuals that come into close contact with one another. Therefore a small opening at the counter level is acceptable and should only be large enough to allow for the passage of documents, payments, etc. Openings should be limited to 6"x6" or 6"x12" depending on the business need. Openings at face level should be covered.

Partitions and Barriers Should:

- be constructed from a material that is easy to clean and disinfect.

Partitions and Barriers Should Not:

- be constructed from flammable material.
- block sprinklers or other fire suppression systems.

Cubicle Walls

In office settings, social distancing is the primary method for minimizing exposure between staff. If 6 feet of social distancing can be maintained between desk chairs, no further action is needed. If 6 feet of social distancing cannot be maintained, consider staggering shifts, rotating staff through the office, assigning cube spaces diagonally (as opposed to immediately adjacent or across from each other) and telework to minimize the number of staff in the office at the same time to meet social distancing requirements. Cubicle walls that meet the recommendations listed below may be used in lieu of the required 6 feet of social distancing requirement.

Cubicle Walls Recommendations:

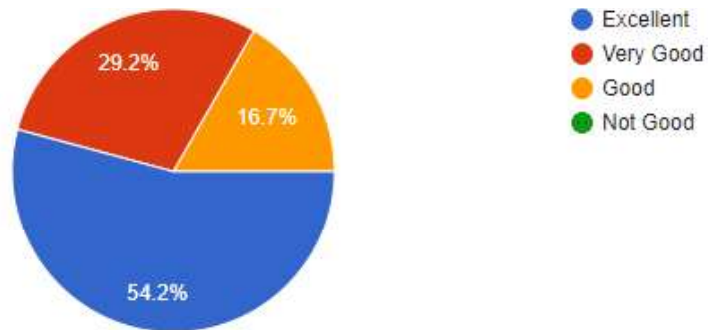
1. There should be no openings in cubicle walls between work stations (e.g., no partial walls).

2. Employees on both sides of the cubicle should not be able to see over the cubicle walls (walls should be high enough to cover a staff member sitting/standing at desk).

2021 DEC Chairs Symposium Survey

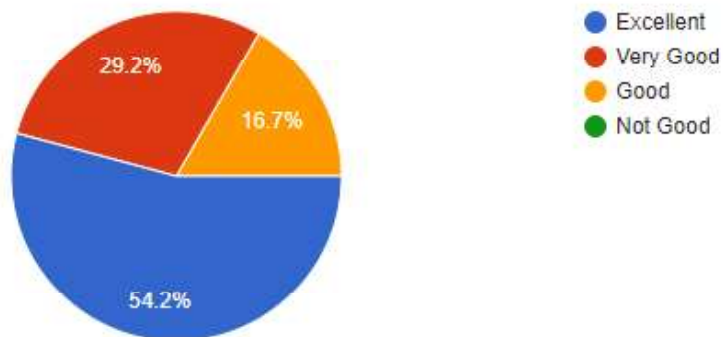
Please rate the following presentation: Welcome, Introductions and Update from the Board (Robin Wolpert, Chair LPRB)

24 responses



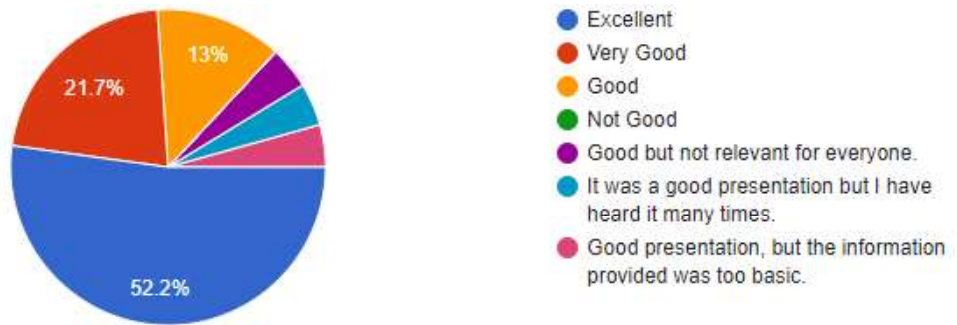
Please rate the following presentation: Update from the Director (Susan Humiston, OLPR)

24 responses



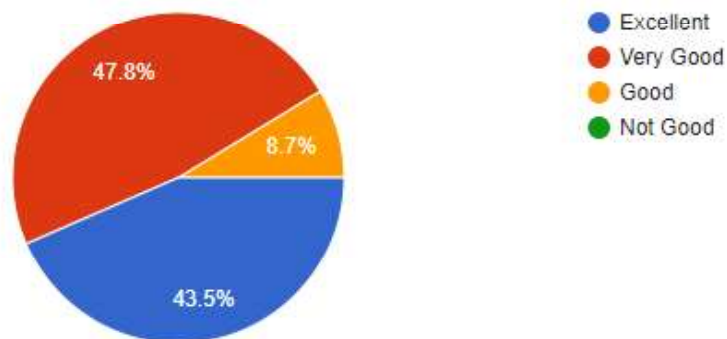
Please rate the following presentation: Anatomy of an Investigation (Josh Brand & Bryce Wang, OLPR; Corinne Ivanca, Fourth DEC Vice Co-Chair; Susan Rhode, LPRB)

23 responses



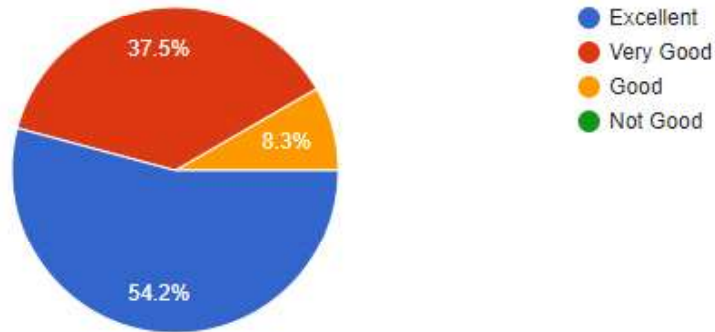
Please rate the following presentation: Uncovering [Un]Wellness (Joan Bibelhausen, LCL & Karin Ciano, OLPR)

23 responses



Please rate the following presentation: Leadership & Continuity Planning (Robin Wolpert, Chair LPRB; Michelle Horn, First DEC Chair; Jennifer Bovitz, OLPR)

24 responses



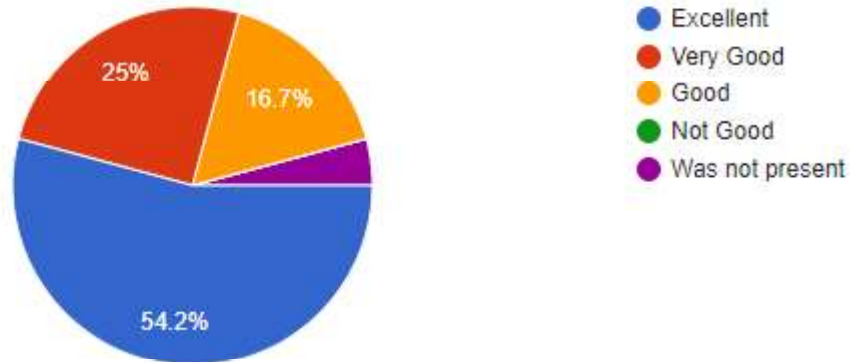
Please rate the following presentation: Working Lunch. Leadership Continued: Managing a DEC (Moderated by Robin Wolpert, LPRB; Allan Witz, LPRB; Jennifer Bovitz, OLPR; Dyan Ebert, MSBA President)

23 responses



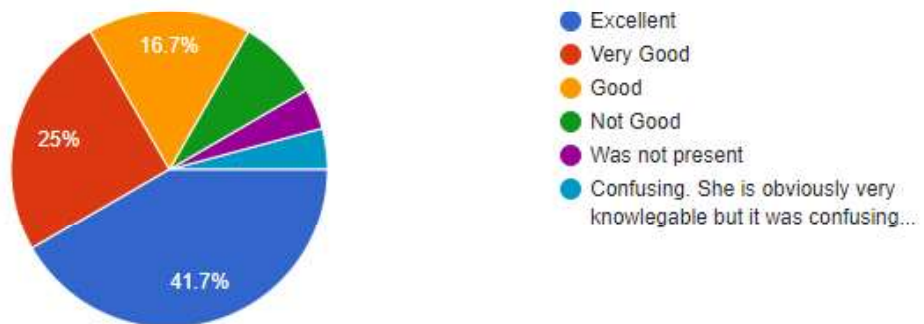
Please rate the following presentation: Supreme Court Update (Justice Hudson)

24 responses



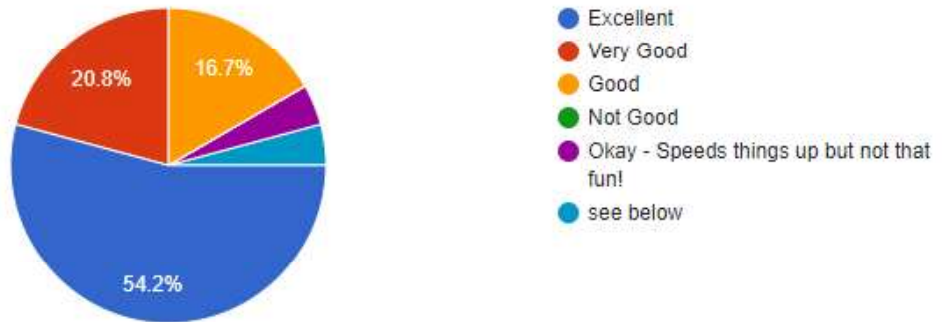
Please rate the following presentation: Fees—the Most Commonly Misunderstood Rules (Amy Halloran, OLPR)

24 responses



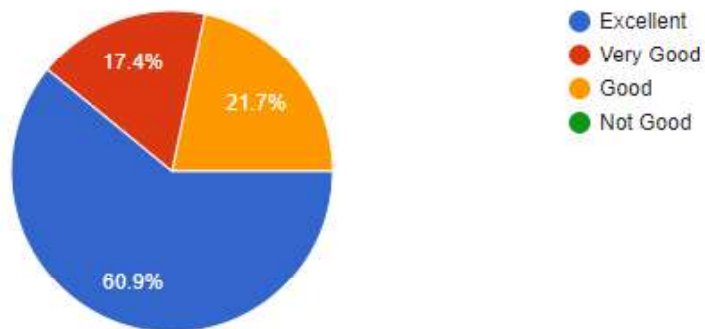
Please rate your satisfaction level with: Zoom meeting format

24 responses



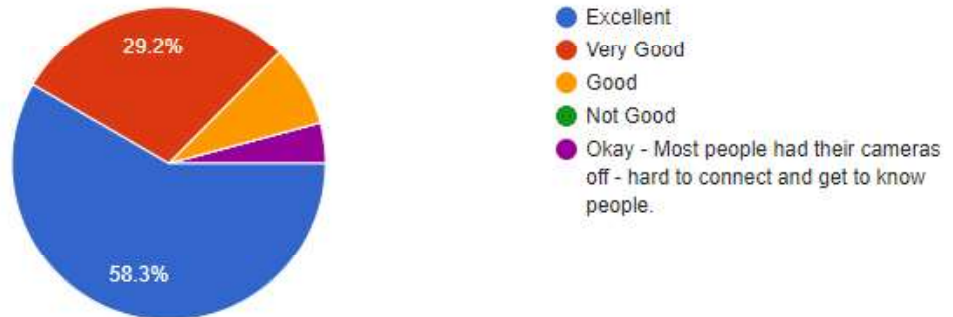
Please rate your satisfaction level with: Audio of presentations

23 responses



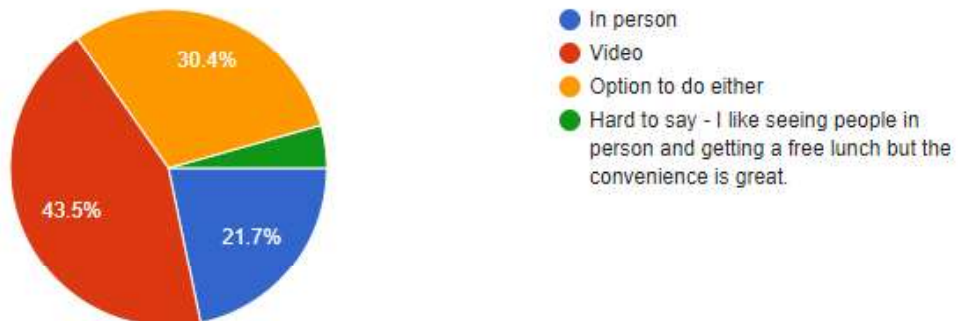
Please rate your satisfaction level with: Video quality of presentations

24 responses



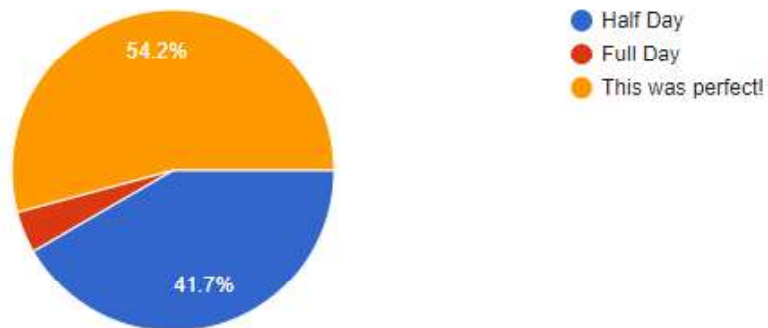
Would you prefer an in-person Symposium or by video conference?

23 responses



What length of the Symposium do you prefer?

24 responses



What topics would you suggest for the next Symposium?

8 responses

More on Rules 1.15 and 1.5 and IOLTA accounts

More board procedural assistance.

A longer presentation regarding the ethics decisions from the past year.

More lunchtime working sessions, more detail on how to manage DEC's and deal with difficult people

What's on the horizon (re technology... like doxing; dark web; ...)

Forum: DEC Chair FAQs

Same topics

One thing I feel is still lacking are the recommendations and results. Much of what we do is precedent based as attorneys, but easy access to other fact patterns under specific rules that resulted in outcome A or B or C to compare would be very helpful. Also, it appears under the rules only certain recommendations are permitted, but then in our annual report additional result possibilities appeared. What are the actual options? Are the options more expansive than what is listed in the rules? I think a presentation solely focused on investigation end results and recommendations would be helpful.

Other comments about the event:

7 responses

Very nice presentation. However, I can't over-emphasize that the in-person seminars are far superior. While Zoom is an acceptable alternative in difficult times, I would certainly not recommend that the online/Zoom format be continued long term.

It got long by zoom. Since we don't get the luncheons, a little token of appreciation would be nice, some small tricket, judicial branch portfolios, pens or coffee cups.

only two 10-minute breaks in a 6+hour seminar is not nearly enough - zoom fatigue is real! please consider things like this to maximize what people get out of the seminar.

Where was lunch? You had no time to get lunch. It went straight to a working lunch. The presumption that someone just magically have a lunch next to them.

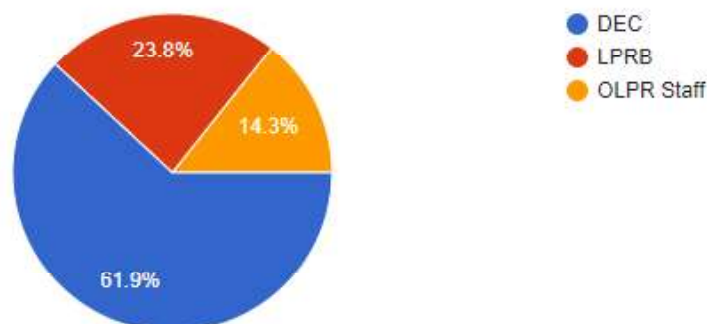
Great job by everyone

Very informative

Great work Casey and Jen!

Please select the category that describes you:

21 responses





Office of Lawyers Professional Responsibility

Protecting the Public, Strengthening the Profession

VOLUNTEER OPPORTUNITY

The Office of Lawyers Professional Responsibility invites volunteers to serve on one of twenty-one local District Ethics Committees throughout the state of Minnesota. These Committees (known as DEC's) investigate complaints of lawyers' alleged unprofessional conduct and submit reports and recommendations regarding those complaints. This is a great opportunity to contribute to your community, learn the ethics rules applicable to lawyers, and help ensure the integrity of the legal system.

Candidates should have an interest in justice, the law, or legal procedures. Candidates do not need to be lawyers or work in the legal profession to qualify – **members of the public are strongly encouraged to apply**. Candidates should be comfortable investigating claims thoroughly and impartially (which will include interviewing people via phone or in-person), able to adhere to strict confidentiality rules, be comfortable working under deadlines, and be able to write clearly. Training and support are provided.

District Ethics Committee volunteers serve without compensation, are appointed to a three-year term by the local bar association (though bar membership is not required), and can expect to investigate one to two complaints a year. The time commitment is flexible and varies.

For more information about volunteering on a District Ethics Committee please contact Casey Brown, Volunteer Coordinator, at Casey.Brown@courts.state.mn.us

OLPR Dashboard for Court And Chair

	Month Ending May 2021	Change from Previous Month	Month Ending April 2021	Month Ending May 2020
Open Files	430	23	407	444
Total Number of Lawyers	332	16	316	325
New Files YTD	382	70	312	363
Closed Files YTD	394	47	347	400
Closed CO12s YTD	54	8	46	81
Summary Dismissals YTD	165	21	144	178
Files Opened During May 2021	70	-8	78	49
Files Closed During May 2021	47	-53	100	71
Public Matters Pending (excluding Resignations)	40	1	39	32
Panel Matters Pending	17	5	12	19
DEC Matters Pending	77	6	71	81
Files on Hold	14	1	13	6
Advisory Opinion Requests YTD	877	165	712	712
CLE Presentations YTD	27	6	21	12
Files Over 1 Year Old				
Total Number of Lawyers	109	-4	113	123
Total Number of Lawyers	77	-4	81	83
Files Pending Over 1 Year Old w/o Charges	45	-7	52	71
Total Number of Lawyers	31	-7	38	54

	2021 YTD	2020 YTD
Lawyers Disbarred	2	1
Lawyers Suspended	9	13
Lawyers Reprimand & Probation	1	2
Lawyers Reprimand	2	0
TOTAL PUBLIC	14	16
Private Probation Files	1	9
Admonition Files	53	33
TOTAL PRIVATE	54	42

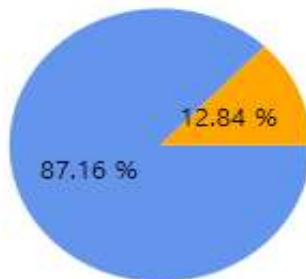
FILES OVER 1 YEAR OLD

Year/Month	OLPR	AD	ADAP	PAN	HOLD	SUP	S12C	SCUA	REIN	TRUS	Total
2017-03					1	1					2
2017-11						1					1
2017-12								1			1
2018-01	1										1
2018-04						2					2
2018-06						1		1			2
2018-07	1					1					2
2018-08	1					2		2			5
2018-10					2			1			3
2018-11								1			1
2018-12	1					1		1			3
2019-01	2				1						3
2019-03	2			1		2					5
2019-04	3				3	1	1				8
2019-05	1			2		2					5
2019-06					1	1					2
2019-07	1					3	1	1			6
2019-08	1							1			2
2019-09	3										3
2019-10	4		1			2		1			8
2019-11	4		1		1	1					7
2019-12	3			1	1						5
2020-01	4							1		1	6
2020-02	4				2	1		1	2		10
2020-03	4					1					5
2020-04	3	1				1			1		6
2020-05	2			2					1		5
Total	45	1	2	6	12	24	2	12	4	1	109

	Total	Sup. Ct.
Sub-total of Cases Over One Year Old	97	31
Total Cases Under Advisement	12	12
Total Cases Over One Year Old	109	43

Active v. Inactive

■ Active 95
■ Inactive 14



All Pending Files as of Month Ending May 2021

Year/Month	SD	DEC	REV	OLPR	AD	ADAP	PAN	HOLD	SUP	S12C	SCUA	REIN	RESG	TRUS	Total
2017-03								1	1						2
2017-11									1						1
2017-12											1				1
2018-01				1											1
2018-04									2						2
2018-06									1		1				2
2018-07				1					1						2
2018-08				1					2		2				5
2018-10								2			1				3
2018-11											1				1
2018-12				1					1		1				3
2019-01				2				1							3
2019-03				2			1		2						5
2019-04				3				3	1	1					8
2019-05				1			2		2						5
2019-06								1	1						2
2019-07				1					3	1	1				6
2019-08				1							1				2
2019-09				3											3
2019-10				4		1			2		1				8
2019-11				4		1		1	1						7
2019-12				3			1	1							5
2020-01				4							1			1	6
2020-02				4				2	1		1	2			10
2020-03				4					1						5
2020-04				3	1				1			1			6
2020-05				2			2					1			5
2020-06				11					1						12
2020-07				19			1		2						22
2020-08		1		19			2		1						23
2020-09		1	1	20			2		2						26
2020-10		3		14			1	1	1						20
2020-11		4	1	13	1										19
2020-12		4		20			3		1			1			29
2021-01		2	1	19					1			1		1	25
2021-02		4	1	8					3			1			17
2021-03		17	1	22			1					1		1	43
2021-04		18		14				1							33
2021-05	14	23		13								1	1		52
Total	14	77	5	237	2	2	16	14	36	2	12	9	1	3	430

ALL FILES PENDING & FILES OVER 1 YR. OLD

SD	Summary Dismissal
DEC	District Ethics Committees
REV	Being reviewed by OLPR attorney after DEC report received
OLPR	Under Investigation at Director's Office
AD	Admonition issued
ADAP	Admonition Appealed by Respondent
PROB	Probation Stipulation Issued
PAN	Charges Issued
HOLD	On Hold
SUP	Petition has been filed.
S12C	Respondent cannot be found
SCUA	Under Advisement by the Supreme Court
REIN	Reinstatement
RESG	Resignation
TRUS	Trusteeship



AT A GLANCE

- FY21 revenue is projected to be on target.
- FY21 expenses are projected to be favorable to budget by approximately \$350,000.
- Expense savings were primarily due to projects which will be carried forward to FY22.
- The OLPR is currently budgeted for 13 attorneys (including the Director), 6 paralegals, one investigator, one Office Administrator, nine staff and one law clerk.
- Primary stakeholders are the Supreme Court, the LPRB, licensed Minnesota attorneys and the public who hire lawyers.

Background:

The OLPR and LPRB serve approximately 30,000 licensed lawyers and the Minnesota public who consume legal services. In 2020, the OLPR received 930 complaints, down slightly from the number of complaints received the prior year. In 2020, 33 lawyers were publically disciplined, fairly consistent with the prior year of 35. Private discipline in 2020 was 102, down significantly from 121 in 2019. Complaints year to date in 2021 are trending flat to 2020, but are down from pre-pandemic years. Public discipline and private discipline for 2021 are up from prior years.

In addition to disciplinary functions, the OLPR performs several administrative functions, such as staffing an ethics hotline utilized an average of 2,000 times annually, running a large probation department supervising approximately 90 lawyers annually, administering an overdraft trust account program, as well as handling attorney resignations, judgment and collections for sanctioned attorneys, administration of the Professional Firms Act, acting as trustee for disabled or deceased attorneys when others are not available to transition practices, and serves as frequent speakers at CLEs throughout the State.

Revenue:

Revenue is driven by attorney registration fees. The LPRB/OLPR receives \$128 for attorneys licensed to practice for more than three years, and smaller assessments for all other licensed attorneys. In FY20, the \$6 per attorney that was allotted to the Minnesota Client Security Board was reallocated to the Lawyers Board of Professional Responsibility. The attorney registration fee has remained consistent for several years. Based on estimates from BLE, only modest increases in registration revenue are projected over the biennium. Although the Court authorized the transfer of \$1M from the Minnesota Client Security Board to the Lawyers Professional Responsibility Board, those funds were not needed this biennium.

Expenditures:

Expenditures for FY21 are projected to be favorable to budget by \$355k primarily due to salary savings. Personnel costs have generally remained flat for several years despite increasing merit and health insurance costs due to timing of hires and other savings on salaries. Due to efficiencies gained through our new data management system, we reduced our staff headcount by one. Current projections anticipate being fully staffed over the entire biennium. Leasing costs were also lower due to free rent as part of the Office move,

offset in part by moving expenses, transition to the VOIP telephone system and new conference room furniture and equipment. The budget also does not yet reflect a \$50,000 allowance to be paid by the landlord to offset cabling costs.

Conclusion:

The Office has been in deficit spending for several years with essentially flat revenue numbers. The planned transfer from the Client Security Fund in FY22 and modest increase to attorney registration in FY23 will provide sufficient funds to ensure an operating reserve over the biennium as the Office continues to look for budget savings.

FY2022/23 Budget Request
MN Lawyers Professional Responsibility Board
\$1.5M Transfer from CSB in FY2022 & 3.0% Fee Increase on 10/1/2022 & 10/1/2023

Appropriation: J650LPR

Account	FY18 Actual	FY19 Actual	FY20 Actual	FY21 Budget	FY21 Projected	FY22 Projected	FY23 Projected
	a	b	c	d	e	f	g
Reserve Balance In	2,911,444	2,346,087	2,035,996	1,469,760	1,469,760	894,714	1,631,279
Revenue:							
Law Prof Resp Attny Judgmnts	24,001	28,310	29,548	24,628	28,102	28,945	29,813
Other Agency Deposits	26,899	24,168	24,164	25,770	26,103	26,886	27,693
Law Prof Resp Misc	49,880	42,771	25,138	56,138	22,223	22,890	23,577
Attorney's Registration	3,150,783	3,352,084	3,446,296	3,424,032	3,456,978	3,424,656	3,447,582
Attorney's Registration 3% Increase 10/1/22							146,068
Law Prof Resp Bd Prof Corp	72,425		67,350	75,663	65,925	67,903	69,940
Proposed Transfer from the Client Security Board						1,500,000	
Subtotal Revenue	3,323,988	3,447,332	3,592,496	3,606,230	3,599,331	5,071,280	3,744,672
Expenditures:							
	3,889,345	3,757,422	4,158,733	4,479,932	4,174,377	4,334,715	4,386,790
Reserve Balance Out (Ending Cash Balance)	2,346,087	2,035,996	1,469,760	596,058	894,714	1,631,279	989,162

Notes:

FY2022/23 assumptions: 5.32%/5.35% insurance increases and 0.0%/3.0% compensation increases (which could change depending on what % increase is appropriated by the Legislature)

* Revenue assumptions FY2022/23 3% over FY21 projected amounts

FY2021 Projected based on revenue received during the same time period in FY20

FY2020/23 3% over FY2021 projected amounts

Atty. Reg. Assumptions: FY2022 29,874 (23,511 @ \$128; 3,958 @ \$69; 1,583 @ \$32; 822 @ \$15)

FY2023 30,074 (23,668 @ \$128; 3,985 @ \$69; 1,594 @ \$32; 827 @ \$15)

The Atty. Reg. Fee revenue also assumes a 3% increase on 10/1/22 and 10/1/23 which will generate \$389,514 of additional projected revenue in FY2025

FY2022/23 Budget Request

MN Lawyers Professional Responsibility Board

Appropriation: J650LPR
 Findept. ID: J653500B

Account	FY18 Actual Expenditures a	FY19 Actual Expenditures b	FY20 Actual Expenditures c	FY21 Budget Expenditures d	FY21 Projected Expenditures e	FY22 Projected Expenditures f	FY23 Projected Expenditures g
41000 Full Time	2,815,371	2,800,141	3,241,787	3,544,341	3,135,276	3,325,734	3,535,587
41030 PT, Seasonal, Labor Svc	200,379	220,535	138,417	124,038	186,806	95,892	99,198
41050 OT Pay	3,022	2,845	283	3,000	665	3,000	3,000
41070 Other Benefits	66,139	41,688	11,384	30,000	37,022	25,797	
PERSONNEL	3,084,910	3,065,209	3,391,870	3,701,379	3,359,768	3,450,422	3,637,785
41100 Space Rental, Maint., Utility	344,225	352,573	359,420	367,361	244,029	371,448	379,448
41110 Printing, Advertising	9,896	10,537	10,694	14,680	4,892	10,000	10,625
41130 Prof/Tech Services Out Ven	27,957	28,339	26,991	31,160	84,156	96,115	42,922
41145 IT Prof/Tech Services	165,964	41,108	149,599	64,500	144,394	79,175	34,500
41150 Computer & System Svc	38,835	41,483	51,782	56,576	50,677	51,813	53,434
41155 Communications	22,556	24,870	23,237	28,655	22,458	23,765	25,164
41160 Travel, Subsistence In-St	13,630	8,309	5,617	15,169	1,128	6,775	7,050
41170 Travel, Subsistence Out-St	18,998	16,925	16,414	40,864		20,000	20,600
41180 Employee Dev't	20,002	9,723	11,596	11,964	6,340	9,240	9,540
41190 Agency Prov. Prof/Tech Svc							
41200 Claims Paid to Claimants							
41300 Supplies	60,435	48,326	55,932	68,335	41,191	66,408	68,469
41400 Equipment Rental	3,035	3,513	3,036	4,000	4,584	2,150	2,275
41500 Repairs, Alterations, Maint	6,921	11,218	6,652	9,056	36,814	34,998	8,425
42030 State Agency Reimb.							
43000 Other Operating Costs	69,636	47,776	40,728	62,300	70,157	54,905	56,552
47060 Equipment Capital	1,386	45,572				25,000	
47160 Equipment-Non Capital	960	1,943	5,165	3,933	102,892	32,500	30,000
47230 Construction					900		
49890 Reverse 1099 Expenditure							
OPERATING	804,435	692,214	766,862	778,553	814,609	884,292	749,005
TOTAL	3,889,345	3,757,422	4,156,733	4,479,932	4,174,377	4,334,715	4,386,790

Notes:
 FY2022/23 assumptions: 5.32%/5.35% insurance increases and 0%/3% compensation increases.

Avoiding ethics complaints

Anually we receive one complaint for every 25 lawyers in the state, and most complaints do not result in discipline. Those are good odds. And there is much you can do to further reduce your chance of receiving a complaint and, if you do receive a complaint, of being disciplined.

Fundamentals matter

The most violated rules are some of the most straightforward, and in theory among the easiest to follow. Rule 1.3, Minnesota Rules of Professional Conduct (MRPC), and Rule 1.4, MRPC, are frequently violated. Do you know what they cover? Answer: diligence (Rule 1.3) and communication (Rule 1.4). Good customer service in the legal profession, as in any service industry, goes a long way, but sometimes lawyers fall short. Lawyers have a professional obligation to control their workload so that each matter can be handled diligently. No professional shortcoming is more widely resented by our clients than procrastination. It often takes a long time to get legal matters resolved, a frustrating fact for clients. Add to that timeline the non-diligence of counsel and complaints

are the natural result. Do yourself a favor and pick up that file or that matter you have been putting off, and work on it. You will feel better, and you will be reducing your exposure to a complaint.

Lawyers are known as skilled communicators, yet more lawyers than you would think struggle to communicate effectively with their clients. Too often we see lack of clarity in the scope of representation, or even

regarding who is and who is not the client. This lack of communication can continue throughout the representation. It is not enough to promptly return calls when your client reaches out to you—although that is required; your duty of communication obliges you to keep the client reasonably informed about the status of the matter: It is on you. You also must discuss the means by which the client's objectives are to be accomplished. Prompt billing and clear communication about fees and expenses as they occur are pivotal to aligning your work with

As they say, the cover-up is often worse than the crime. You will always be better off when you choose candor and honesty, no matter how humbling or uncomfortable it may be to do so.

the client's objectives. Periodically taking time to make sure you and your client are on the same page throughout the course of the representation is always worth the effort and goes a long way toward a satisfactory representation, no matter the end result.

Effective communication starts at the retention stage. Every engagement should have a written fee agreement, signed or acknowledged by the client, that at a minimum sets forth the scope of the representation and the basis of your fee. Some forms of engagement, such as contingency representation, require a written fee agreement signed by the client. Even when it's not required by the rules, you should prepare one for your own protection, and to limit disputes with your clients. Review your standard fee agreements frequently to confirm compliance with the ethics rules and

resist the urge to overreach!

Fee agreement errors follow close behind diligence and communication among the most frequently violated rules. If I've said it once, I've said it a thousand times—no fee is earned upon receipt and no advance fee is nonrefundable. Scrub those phrases from your vocabulary—and fee agreements—and read Rule 1.5, MRPC, in its entirety. Also, do yourself a favor and treat fee disputes with your client in a fair and equitable manner. While the Office does not investigate fee disputes only (unless an unreasonable fee is involved), fee disputes often reveal other ethics violations that may not have risen to the level of a complaint if the fee concerns had been handled promptly and equitably as a first resort. You are certainly entitled to be paid for your services, but failing to promptly address fee concerns fairly can be shortsighted.

Candor and honesty matter

I continue to be surprised at how understanding and forgiving clients can be, and I wish that every lawyer kept this in mind. Clients understand that mistakes happen, and they appreciate your candor in addressing those mistakes. And though they might not like it initially, most come to appreciate your candid and unvarnished advice. Clients also are generally okay when you say you don't know the answer. Clients understand when you tell them something else has come up and their matter has been delayed. Clients do not like to start over with new lawyers.

It will not surprise you to learn that no client is understanding when you try to dodge responsibility or obfuscate the facts in lieu of acknowledging any of the foregoing. This is also true for the Court and communications with this Office. Some lawyers cannot resist the urge to "lawyer" or massage the facts. Partially true but misleading statements, or omissions, can be the equivalent of affirmative false statements. As they say, the cover-up is often worse than the crime. You will always be better off when you choose candor and honesty, no matter how humbling or uncomfortable it may be to do so.



SUSAN HUMISTON is the director of the Office of Lawyers Professional Responsibility and Client Security Board. Prior to her appointment, Susan worked in-house at a publicly traded company, and in private practice as a litigation attorney.

✉ SUSAN.HUMISTON@COURTS.STATE.MN.US

You matter

It has been a rough 12 months, and although there is much hope in 2021, challenges remain. This morning I saw a press report that another Kentucky lawyer died by suicide in 2021. In January, four Kentucky lawyers died by suicide in three weeks, prompting the state bar president to issue a statement offering resources and calling upon all members of the profession to lift up others when they could.

I worry about the members of our profession a lot, and I worry about lawyers facing discipline. I also take very seriously my responsibility to enforce the ethics rules, and misconduct has consequences. I do not see these statements as contradictory. This morning I received a letter from a lawyer who was disbarred a few years ago for client theft. This lawyer wrote in order to begin to address his Client Security Board obligation. He reported that he has been sober for a few years now (we knew something was up, but he did not raise substance use in response to misconduct charges), and that he has slowly been putting his life back together. I am very glad he received help, and I'm glad the Client Security Board was there to reimburse his clients.

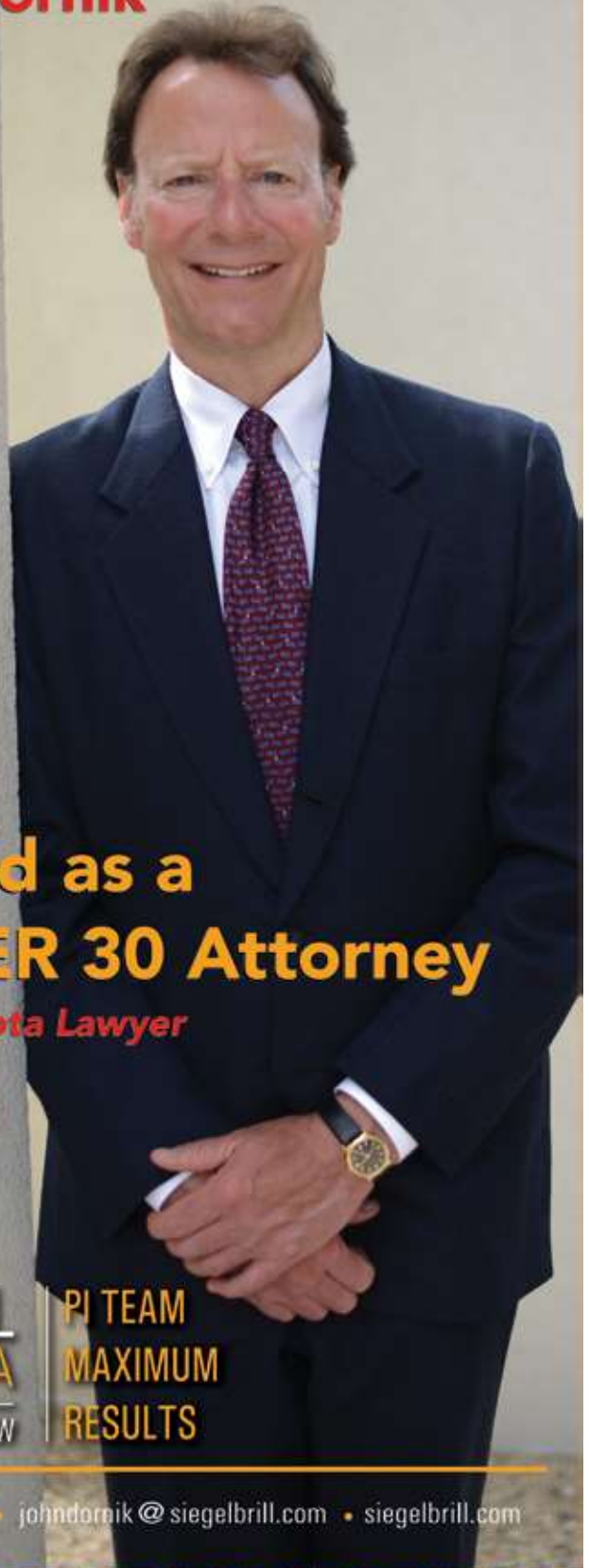
Help is available, but it can be very hard to reach for it. Make sure you check in with yourself and others. There is no doubt that we will continue to feel the effects of the last year for the foreseeable future, to say nothing of the other well-documented challenges that abound in the profession.

Conclusion

Sometimes complaints are inevitable, but much lies within your control. Focusing on a few fundamentals goes a long way toward mitigating risk. We often give this advice to our clients, and you may be surprised to find that it holds true in your practice as well. Do everything you can to work your files and matters diligently; prioritize communications with your client; familiarize yourself with the fee agreements rules and follow them; approach everything with the utmost honesty and candor, most particularly when it is tempting not to do so; and don't forget to check in with yourself and those you work with closely. And, remember, we are available to answer your ethics questions: 651-296-3952. ▲

Siegel Brill Congratulates John Dornik

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Mythbusters: Lawyer discipline edition

This year marks the 50th anniversary of the creation of the Office of Lawyers Professional Responsibility. In 1971, the Minnesota Supreme Court appointed the first Administrative Director of the Office, R.B. Reavill, having created the Lawyers Professional Responsibility Board the prior year. Since 1971, OLPR directors have written columns for *Bench & Bar*, advising the bar on ethics topics of interest. To ensure as broad a reach as possible, *Bench & Bar* allows us to republish these articles on our website, where you can find all of those articles archived today. On two occasions—in 1984 and again in 2013—Directors have written columns devoted to busting myths about the Office and the discipline system. In this anniversary year, let's see if I can demystify some beliefs about the Office, presented in no particular order.

Belief #1: Only clients can file complaints.



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This is not true. In Minnesota, as in many states, there is no standing requirement to file a complaint. Who is making the complaint may figure in determining whether there is a reasonable basis to believe misconduct may have occurred—the standard we use to determine if we should investigate. But opposing parties, opposing counsel, members of the public, family members, etc., may file a complaint, and we will give it the same consideration we give a client



complaint. There is also no statute of limitations to file a discipline complaint. The passage of time may necessarily impact our ability to investigate misconduct, but it has long been a core part of the process to disfavor any barriers to alleging misconduct.

Belief #2: Anonymous complaints are not investigated.

Mostly true, but there are exceptions. If the Office receives a complaint from an anonymous source, the Office will consider a number of factors, including whether the alleged misconduct is serious, the level of detail provided, whether an investigation can effectively occur without an identified complainant, and whether the conduct alleged involves personal rather than professional misconduct. The Office does not want to be used to advance personal agendas, but also understands that fear of retaliation may affect a person's willingness to come forward, even when there is an ethical duty to report misconduct. The disci-

pline imposed in the *Pertler* matter in 2020 (former county attorney disbarred for withholding information regarding a police officer) started with an anonymous complaint.

Belief #3: The Director can initiate an investigation without a complaint.

True, but there are good checks in place. Rule 8(a), Rules on Lawyers Professional Responsibility, provides that “with or without a complaint,” the Director—upon a reasonable belief that professional misconduct has occurred—may conduct such investigation as is appropriate. But the rule also provides that investigations on the sole initiative of the Director need the approval of the Executive Committee of the Lawyers Professional Responsibility Board. The two most common reasons to seek approval, as noted in the 2013 mythbusters article, remain news reports of a lawyer's felony criminal arrest or conviction, or court of appeals decisions involving attorney misconduct.

There are other areas in which a Director's file might be initiated without a complaint and without Executive Committee approval (because the investigation is not on the sole initiative of the Director), including trust account misconduct discovered after an overdraft notice is received on a lawyer's IOLTA account, misconduct of another lawyer (such as a lawyer's supervisor) discovered while investigating a complaint against a subordinate lawyer, or a report of discipline from another disciplinary agency against a Minnesota lawyer. Director-initiated complaints account for very few investigations annually, but help to ensure that misconduct is not ignored for lack of a complaining party.

Belief #4: The Director may have an open investigation against me without my knowledge.

Not true. The Director's office always provides notices of investigations to attorneys. I have heard from some lawyers under the impression that our summary dismissal notices mean that we reviewed a matter without their input, because the document is entitled "Determination that Discipline is Not Warranted Without Investigation." I'm not sure where that language came from, but I agree it looks like we make a discipline determination without input from you—though it's actually how we explain to the complainant that we are not investigating their complaint.

This is often the first notice a lawyer gets that a complaint has been filed, but it also indicates that no investigation will be conducted for the reasons stated. If we or a district ethics committee are investigating a complaint against you, you will receive a document entitled "Notice of Investigation." If you do not keep your address up-to-date with the Lawyer Registration Office (lro.mn.gov), however, you might not receive that notice in a timely fashion. We do spend a surprising amount of time chasing down lawyers.

Belief #5: Only lawyers investigate lawyers.

Not true. Public members play a very important role in Minnesota's discipline system. District ethics committees, by rule, are composed of at least 20 percent public members. These individuals do not just advise on discipline recommendations by the committee, but conduct

investigations themselves. While this can be disconcerting for lawyers, it is by design. Public members make up a large share (40 percent) of the Lawyers Professional Responsibility Board as well. Board members (including public members) review decisions by the Director not to investigate a complaint, or to dismiss a complaint after investigation, if a complainant appeals that determination. This information is provided to complainants in the notice regarding their appeal rights. I hear from a lot of complainants that this is very meaningful to them: They like to know that their concerns may be heard by a non-lawyer. Public members also sit on panels of the board to review charges of public discipline for probable cause (ensuring that the public perspective is represented) and also sit on panels that hear appeals by lawyers to private admonitions. While we will likely never convince some members of the general public that a self-regulated system is more than the fox guarding the henhouse, public member participation in discipline decisions goes a long way toward countering that belief.

Belief #6: Lawyers involved in discipline do not know what it is like to practice law.

Not true. Staff attorneys in the Office, including myself, have practiced in a wide variety of practice areas and settings before joining the Office. We have experience in large firms, small firms, solo practice, in-house counsel positions, and government agencies, including in the area of criminal law, both prosecution and defense. Further, most cases are initially investigated at the district ethics committee, which is composed of practicing attorneys in your local community. Attorney board members come from a variety of practices as well, and include MSBA members and non-MSBA members. Our discipline investigations and reviews of discipline determinations greatly benefit from this diversity of legal experience.

Belief #7: Lawyer well-being does not matter in discipline.

Not true, although it can certainly feel this way to affected attorneys. Lawyer discipline is not punishment, but rather is about protecting the public and the profession and deterring future misconduct by that lawyer and other law-

yers. Because discipline is largely about objective factors, the subjective, personal aspects of the situation may have less impact than a lawyer would like. But those factors are taken into consideration if raised by a lawyer in mitigation. We work very hard to understand why something occurred as well as what occurred, but we recognize that it can be difficult for lawyers to raise sensitive issues, particularly in public matters. We frequently refer lawyers to lawyer assistance programs like Minnesota Lawyers Concerned for Lawyers (mnlcl.org), and use private probation where appropriate to help lawyers get back on track. We see firsthand the impact of untreated substance use and mental health issues, and want nothing more than to see lawyers get the help they need to maintain an ethical practice.

Belief #8: OLPR only focuses on discipline.

Investigating and prosecuting violations of the ethics rules is the majority of our work. But we also present at CLEs; run an ethics hotline that provides free ethics advice to thousands of attorneys a year; serve as a trustee for disabled or deceased lawyers who do not have a succession plan in place; provide staff support to the Client Security Board and administer the Client Security Fund; staff a large probation department; provide support to Lawyers Board committees on proposed rule changes and the issuance of ethics opinions; train and mentor district ethics committee volunteers; administer an overdraft notification program aimed at trust account compliance; handle the annual registration of thousands of professional firms under the Professional Firms Act; provide written disclosures of discipline history upon authorization of counsel; maintain a website with a wealth of ethics information; and handle reinstatements to and resignations from the bar. Whew! When I was hired, I was surprised at the breadth of the OLPR's work, and remain very proud of all that we do.

There may well be other misconceptions about the work of the Office, but I hope this article has dispelled some myths. If you have questions about what we do and how we do it, please let me know. And, remember, we are available to answer your ethics questions: 651-296-3952. ▲

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**MEETINGS OF THE LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD
2022**

Lawyers Professional Responsibility Board meetings are
scheduled for the following dates and locations:

<u>Date</u>	<u>Location</u>
Friday, January 28, 2022*	TBD
Friday, April 29, 2022*	TBD
Friday, June 24, 2022*	TBD
Friday, October 28, 2028*	TBD

*Lunch is served for Board members at 12:00 noon. The public meeting starts at approximately 1:00 p.m.

If you have a disability and anticipate needing an accommodation, please contact Susan Humiston at lprada@courts.state.mn.us or at 651-296-3952. All requests for accommodation will be given due consideration and may require an interactive process between the requestor and the Office of Lawyers Professional Responsibility to determine the best course of action. If you believe you have been excluded from participating in, or denied benefits of, any Office of Lawyers Professional Responsibility services because of a disability, please visit www.mncourts.gov/ADAaccommodation.aspx for information on how to submit an ADA Grievance form.